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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 324 HON. VICTORIA G. CHANEY, JUDGE

FREDRIC RELLER,)
)
PLAINTIFF,)
)
VS.) SUPERIOR COURT
) CASE NO. BC 261796
PHILIP MORRIS, INCORPORATED,)
A CORPORATION, ET AL.,)
)
DEFENDANTS.)
)

REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS
TUESDAY, JULY 1, 2003
A.M. SESSION AND P.M. SESSION
PAGES 7753 THROUGH 8014, INCLUSIVE

APPEARANCES:

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OFFICIAL REPORTER

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I N D E X

TUESDAY, JULY 1, 2003..... 7760:3
8:03 A.M..... 7753:7
12:15 P.M..... 7892:7

WITNESSES

JEAN R. ALLARD

DIRECT EXAMINATION BY MR. PIUZE..... 7762:17
CROSS EXAMINATION BY MS. WILKINSON..... 7775:11

FREDERIC RELLER

VIDEOTAPE DEPOSITION WAS PLAYED BY THE PLAINTIFF.... 7777:18

VIDEOTAPE DEPOSITION CONTINUED BEING PLAYED
BY THE PLAINTIFF..... 7893:5

EXHIBITS

I.D. 249 - 11-27-00 LETTER..... 7769:26
EVID. - 249..... 8003:25

7760

1 CASE NUMBER: BC 261796
2 CASE NAME: RELLER V. PHILIP MORRIS
3 LOS ANGELES, CALIFORNIA TUESDAY, JULY 1, 2003
4 DEPARTMENT 324 HON. VICTORIA G. CHANEY, JUDGE
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)
6 REPORTER: LINDA BICHE, CSR NO. 3359, RMR, CRR
7 TIME: 8:30 A.M.

8
9 - - O - -

10

11 (THE FOLLOWING PROCEEDINGS WERE HELD
12 IN OPEN COURT IN THE PRESENCE
13 OF THE JURY:)

14

15 THE COURT: GOOD MORNING, EVERYBODY.

16

17 (CHORUS OF GOOD MORNING.)

18

19 THE COURT: DID YOU FOLKS HAVE A GOOD FOUR DAYS OFF?
20 THREE DAYS. THREE DAYS. GOT IT WRONG. SORRY.
21 ALL RIGHT. IN THE MATTER OF RELLER VERSUS
22 PHILIP MORRIS, BC 261796.

23 THE RECORD SHOULD REFLECT THAT ALL TWELVE
24 JURORS AND FOUR ALTERNATES ARE PRESENT.

25 MR. PIUZE IS HERE FOR PLAINTIFF.

26 MR. GARDNER AND MS. WILKINSON FOR DEFENDANT.

27 DR. LEWIS IS PRESENT IN COURT.

28 ALL RIGHT. LADIES AND GENTLEMEN, I THINK TODAY

7761

1 WHAT WE HAVE IS THE TESTIMONY OF MR. RELLER.

2 AM I RIGHT SO FAR, MR. PIUZE?

3 MR. PIUZE: SORT OF.

4 THE COURT: SORT OF. OKAY.

5 MR. PIUZE: WE'RE GOING TO START WITH THE TESTIMONY
6 OF DR. JEAN ALLARD AND THEN MR. RELLER.

7 THE COURT: OKAY. SO I DON'T HAVE TO REMEMBER TO DO
8 THIS LATER, I BELIEVE THAT MR. RELLER IS GOING TO BE
9 TESTIFYING ON VIDEOTAPE.

10 DO I HAVE THAT RIGHT, MR. PIUZE?

11 MR. PIUZE: YES.
12 THE COURT: OKAY. AND IT IS -- IT IS UNDER OATH, AND
13 YOU ARE TO LOOK AT THE TESTIMONY OF ANYBODY WHO TESTIFIES
14 THROUGH VIDEOTAPE UNDER OATH, OR THE TESTIMONY, LIKE WE DID
15 THE OTHER DAY. WE HAVE TWO SIDES READING THE TESTIMONY -- OR
16 ONE SIDE, THE READING OF THE TESTIMONY UNDER OATH. YOU HAVE
17 TO LOOK AT THAT AS THOUGH IT WERE GIVEN HERE IN COURT.

18 DO YOU ALL UNDERSTAND THAT?

19
20 (CHORUS OF AFFIRMATIVE RESPONSES.)

21
22 THE COURT: GREAT.
23 OKAY. MR. PIUZE, YOUR CLOCK IS TICKING.
24 MR. PIUZE: GOOD MORNING.

25
26 (CHORUS OF GOOD MORNING.)

27
28 THE COURT: DR. ALLARD, IF YOU COME OVER HERE, STAND
7762

1 BEHIND THE REPORTER, FACE THE CLERK TO BE SWORN, PLEASE.

2
3
4 JEAN R. ALLARD,
5 CALLED AS A WITNESS BY THE PLAINTIFF, HAVING BEEN FIRST DULY
6 SWORN, TESTIFIED AS FOLLOWS:

7 THE CLERK: THANK YOU. PLEASE BE SEATED IN THE
8 WITNESS STAND.

9 SIR, PLEASE STATE AND SPELL YOUR NAME FOR THE
10 RECORD.

11
12 THE WITNESS: JEAN R. ALLARD. THAT'S SPELLED,
13 J-E-A-N, R., A-L-L-A-R-D.

14 THE CLERK: THANK YOU.

15 THE COURT: MR. PIUZE.

16
17 DIRECT EXAMINATION

18 BY MR. PIUZE:

19 Q. GOOD MORNING.

20 A. GOOD MORNING.

21 Q. WHAT'S YOUR OCCUPATION, PLEASE?

22 A. I'M A PHYSICIAN.

23 Q. SO IF I ASK YOU WHAT KIND OF PHYSICIAN, YOU'D
24 SAY GOOD?

25 A. YES.

26 Q. WHAT SPECIALTY?

27 A. I'M A CARDIOVASCULAR THORACIC SURGEON.

28 Q. DOES THORACIC MEAN CHEST?

7763
1 A. YES, IT DOES.

2 Q. DID YOU TREAT MR. RELLER?

3 A. YES, I DID.

4 Q. WHERE?

5 A. AT DANIEL FREEMAN MARINA HOSPITAL IN
6 MARINA DEL REY.

7 Q. WHEN?

8 A. IN NOVEMBER OF 2000.

9 Q. WHY?

10 A. I WAS ASKED TO SEE MR. RELLER BECAUSE HE HAD A
11 LARGE LEFT PLEURAL EFFUSION THAT NEEDED DRAINAGE AND
12 DIAGNOSIS.

13 Q. PLEASE TELL THE JURY YOUR EDUCATIONAL
14 BACKGROUND THAT ALLOWS YOU TO BE A THORACIC DOCTOR.

15 A. I WENT TO HIGH SCHOOL AND COLLEGE, AFTER WHICH

16 I WENT TO MEDICAL SCHOOL, AFTER WHICH I DID AN INTERNSHIP.
17 THEN I DID TRAINING AND GENERAL SURGERY FOR
18 FOUR YEARS.
19 AND THEN I DID TRAINING IN CARDIOVASCULAR AND
20 THORACIC SURGERY FOR ANOTHER TWO YEARS.
21 AND THEN I WORKED IN THE RESEARCH LAB FOR TWO
22 YEARS TO GET THE TRAINING IN RESEARCH AND BECOME AN ACADEMIC
23 SURGEON, WHICH I WAS FOR APPROXIMATELY TWO YEARS. THAT ALL
24 WAS IN CANADA. SPECIFICALLY, THE PROVINCE OF QUEBEC, AND
25 THEN I MOVED TO CALIFORNIA IN 1980.

26 Q. THANK YOU.
27 LET'S GO BACK, AND IF YOU WOULD, JUST PUT SOME
28 NAMES TO THE COLLEGE, TO THE MEDICAL SCHOOL, TO THE PLACES
7764

1 WHERE YOU DID YOUR RESIDENCY FELLOWSHIP, ET CETERA.
2 A. THE WAY THE EDUCATION SYSTEM AT LEAST WORKED AT
3 THE TIME WHERE I WAS THERE IN CANADA, HIGH SCHOOL AND COLLEGE
4 WAS ONE ENTITY CALLED COLLEGE, A BIT LIKE THE EUROPEAN
5 SYSTEM. THE COLLEGE I WENT TO WAS AFFILIATED THROUGH THE
6 UNIVERSITY OF LAVAL. THAT'S IN QUEBEC CITY. THE COLLEGE
7 ITSELF WAS IN THE AREA WHERE I COME FROM.

8 I WENT TO OTTAWA MEDICAL SCHOOL, AFTER WHICH I
9 DID MY INTERNSHIP AT OTTAWA GENERAL HOSPITAL.

10 THEN I MOVED TO MONTREAL AND DID MY GENERAL
11 SURGERY TRAINING AT THE ROYAL VICTORIA HOSPITAL IN MONTREAL.

12 AND I DID MY CARDIOVASCULAR AND THORACIC
13 SURGERY TRAINING AT THE MC GILL UNIVERSITY CARDIOVASCULAR AND
14 THORACIC SURGERY TRAINING CENTER WHERE WE ROTATED THROUGH
15 FOUR LARGE HOSPITALS IN MONTREAL.

16 AFTER WHICH I WENT TO SAN FRANCISCO AT THE
17 CARDIOVASCULAR RESEARCH INSTITUTE FOR TWO YEARS, FOR TRAINING
18 AND RESEARCH.

19 Q. OKAY. HOW LONG HAVE YOU BEEN -- THANK YOU.
20 ARE YOU BOARD CERTIFIED?

21 A. YES, I AM.

22 Q. IN WHAT, PLEASE?

23 A. I'M BOARD CERTIFIED IN GENERAL SURGERY FOR THE
24 PROVINCE OF QUEBEC FOR CANADA AND FOR THE U.S.

25 AND I'M BOARD CERTIFIED IN THORACIC SURGERY,
26 AGAIN, FOR THE PROVINCE OF QUEBEC, CANADA AND THE UNITED
27 STATES.

28 Q. WHERE DO YOU PRACTICE?
7765

1 A. I PRACTICE MAINLY IN INGLEWOOD, CALIFORNIA.

2 Q. HOW LONG HAVE YOU PRACTICED MAINLY IN
3 INGLEWOOD, CALIFORNIA?

4 A. SINCE 1982.

5 Q. WHAT HOSPITALS ARE YOU AFFILIATED WITH, PLEASE?

6 A. DANIEL FREEMAN MEMORIAL HOSPITAL IN INGLEWOOD.
7 CENTINELA MEDICAL HOSPITAL, INGLEWOOD.

8 DANIEL FREEMAN MARINA HOSPITAL IN
9 MARINA DEL REY.

10 AND ROBERT F. KENNEDY MEDICAL CENTER IN
11 HAWTHORNE.

12 I'M ALSO ASSISTANT CLINICAL PROFESSOR AT UCLA,
13 WHERE I ATTEND MAINLY AT HARBOR-UCLA.

14 Q. OKAY. AND HARBOR-UCLA IS A TRAINING HOSPITAL
15 FOR UCLA MED SCHOOL, RIGHT?

16 A. YES, IT IS.

17 Q. WHICH HOSPITAL DID YOU SEE MR. RELLER AT?

18 A. AT DANIEL FREEMAN MARINA HOSPITAL.

19 Q. YOU TOLD US YOU SAW HIM FOR A PLEURAL EFFUSION.
20 WHAT'S A PLEURAL EFFUSION?

21 A. IT'S AN ACCUMULATION OF -- ABNORMAL
22 ACCUMULATION OF FLUID IN THE CHEST.
23 Q. WHO ASKED YOU TO SEE HIM, PLEASE?
24 A. IT WAS DR. LAI, HIS ATTENDING PHYSICIAN FOR HIS
25 STAY AT THE HOSPITAL WHERE HE WAS.
26 Q. AND WHAT WAS IT THAT YOU DID TO OR FOR OR WITH
27 MR. RELLER, PLEASE?
28 A. I PERFORMED A SMALL OPERATION IN THE LEFT SIDE
7766
1 OF HIS CHEST TO EVACUATE THE FLUID, EXAMINED THE AREA AND
2 BIOPSIED WHATEVER ABNORMAL TISSUE THAT I WOULD FIND.
3 Q. DID YOU DO THE BIOPSY?
4 A. YES, I DID.
5 Q. AND ONCE YOU GOT THE TISSUE, WHAT DID YOU DO
6 WITH IT?
7 A. GENERALLY, IN A SITUATION LIKE THIS, WE TAKE
8 SAMPLE OF TISSUE THAT LOOKS SUSPICIOUS AND HAND IT OVER TO
9 THE PATHOLOGIST SO THAT THEY CAN EXAMINE IT, WHAT WE CALL A
10 FROZEN SECTION OR A QUICK SECTION, WHICH IS PRECISE ENOUGH TO
11 LET US KNOW IF IT'S DIAGNOSTIC IN THE SENSE OF IF IT'S A
12 MALIGNANCY OR OTHER TYPE OF DIAGNOSIS.
13 Q. DID THE PATHOLOGIST REPORT BACK TO YOU IN
14 WRITING?
15 A. NO. SHE CAME BACK TO THE ROOM AND SPOKE WITH
16 ME.
17 Q. OKAY. SHE WOULD BE WHO, PLEASE?
18 A. DR. MIEN HARDY.
19 Q. I WANT TO SHOW YOU SOME DOCUMENTS FROM THE
20 PATHOLOGY DEPARTMENT OVER AT THE HOSPITAL.
21 THE COURT: HAVE THESE PREVIOUSLY BEEN MARKED,
22 MR. PIUZE?
23 MR. PIUZE: YES, THEY HAVE.
24 THE COURT: OKAY. IF YOU CAN REFER TO THE COURT
25 EXHIBIT NUMBER, THEN, I'D APPRECIATE IT.
26 MR. PIUZE: YES, I WILL.
27 THE FIRST IS EXHIBIT 36 HERE.
28 Q. AND TO START WITH, DOCTOR, I'D JUST LIKE TO
7767
1 DIRECT YOUR ATTENTION TO THESE NUMBERS UP HERE, BECAUSE I
2 THINK WE'VE BEEN PREVIOUSLY TOLD THAT THESE GO SEQUENTIALLY.
3 SO AS I SHOW YOU SOME MORE OF THESE REPORTS, I
4 THINK THE NUMBERS WILL PROBABLY WIND UP GOING UP. ANYWAY,
5 THE DATE'S 11-21-00.
6 WHAT WAS THE DATE OF YOUR LITTLE SURGERY THAT
7 YOU DID ON MR. RELLER?
8 A. THE 21ST OF NOVEMBER, SAME DATE.
9 Q. AND UNDER DIAGNOSIS THERE, CAN YOU READ THAT,
10 PLEASE?
11 A. (READING:)
12
13 DIAGNOSIS: EPITHELIAL-TYPE
14 DIFFUSE MALIGNANT MESOTHELIOMA.
15
16 Q. WAS THAT FROM A FROZEN SECTION?
17 A. THIS WOULD BE THE FINAL EXAMINATION.
18 Q. I'M SHOWING YOU PAGE 1 AGAIN.
19 SEE UP HERE WHERE IT SAYS: FROZEN SECTION
20 DIAGNOSIS?
21 A. YES, I DO.
22 Q. DOES THAT MEAN SOMETHING THAT HAD BEEN DONE
23 EARLIER?
24 A. THIS IS THE FROZEN SECTION I WAS REFERRING TO
25 AT THE TIME OF SURGERY WITH THE -- THIS IS THE WRITTEN REPORT

26 CORRESPONDING TO THE VERBAL REPORT SHE GAVE ME AT THE
27 SURGERY.

28 Q. WHEN YOU WERE TREATING MR. RELLER -- AND WE'RE
7768

1 GOING TO GET IN A MINUTE OR TWO TO WHAT IT IS YOU DID AFTER
2 THIS -- WERE YOU ON THE ASSUMPTION THAT HE HAD MALIGNANT
3 MESOTHELIOMA?

4 A. YES, I WAS.

5 Q. AND WAS THAT ASSUMPTION BASED ON WHAT THE
6 PATHOLOGIST TOLD YOU?

7 A. YES, IT WAS.

8 Q. AFTER YOU TOOK THE BIOPSY AND SENT IT TO THE
9 PATHOLOGIST, DID YOU DO ANYTHING ELSE TO OR FOR OR WITH
10 MR. RELLER, PLEASE?

11 A. WELL, EVACUATED ALL THE FLUID THAT COULD BE
12 EVACUATED FROM THE CHEST CAVITY. I EXAMINED THE REST OF THE
13 LUNG, GROSSLY, VISUALLY. AND I PERFORMED WHAT WE CALL A
14 PLEURAL DISEASE, WHICH MEANS ESSENTIALLY A STICKING TOGETHER,
15 A PLEURA, THE LINING OF THE LUNG BEING ONE PLEURA, THE OTHER
16 PLEURA BEING THE LINING OF THE CHEST.

17 WHAT WE DO IN THIS CIRCUMSTANCE IS, AS WE RUB A
18 SPONGE, A GAUZE SPONGE ON THE MEMBRANES, IT IRRITATES THEM A
19 LITTLE BIT. ONCE THEY GET IN CONTACT, ONCE THE FLUID IS
20 EVACUATED, THEY SHOULD STICK TOGETHER AND PREVENT FURTHER
21 FLUID ACCUMULATION.

22 THEN WE ROUTINELY LEAVE A CHEST DRAIN AFTER AN
23 OPERATION LIKE THAT, AND THEN CLOSE THE CHEST INCISION.

24 Q. IN NOVEMBER -- I'M SORRY. I'M JUST A BIT AHEAD
25 OF MYSELF.

26 AFTER YOU CLOSED THE INCISION, DID YOU PROVIDE
27 ANY FURTHER MEDICAL TREATMENT TO OR FOR MR. RELLER?

28 A. YES. I FOLLOWED HIM ON A DAILY BASIS, MAKING
7769

1 SURE HIS WOUNDS WERE HEALING PROPERLY, THAT THE CHEST WAS
2 DRAINING PROPERLY AND SO ON, THAT HE WAS NOT UNCOMFORTABLE,
3 MANAGED HIS PAIN, POST SURGICAL DRAIN.

4 Q. AT SOME POINT, WITHIN A WEEK OR SO AFTER THIS
5 OPERATION, DID HE DEPART FROM YOUR HOSPITAL?

6 A. IT'S MY UNDERSTANDING HE WAS TRANSFERRED OUT TO
7 ANOTHER HOSPITAL. I'M NOT SURE WHICH ONE. OR AT LEAST AT
8 THE TIME I WAS NOT.

9 Q. AFTER HE WAS TRANSFERRED OUT TO ANOTHER
10 HOSPITAL, DID YOU EVER TREAT HIM AGAIN?

11 A. I HAVE NO RECORD OF SEEING HIM IN THE OFFICE,
12 NO.

13 Q. OKAY. AND AFTER HE TRANSFERRED OUT TO ANOTHER
14 HOSPITAL, DID YOU EVER SEE HIM AGAIN?

15 A. I DON'T BELIEVE SO.

16 Q. THANK YOU.

17 WHILE HE WAS IN THE HOSPITAL --
18 YOUR HONOR, COULD I HAVE MY NEXT NUMBER,
19 PLEASE?

20 THE COURT: OF COURSE. 249.
21 AND WHAT WOULD 249 BE?
22 MR. PIUZE: A LETTER FROM DR. ALLARD DATED
23 NOVEMBER 27, 2000.
24 THE COURT: THANK YOU. LETTER FROM DR. ALLARD, 249.
25
26 (I.D. 249 - 11-27-00 LETTER)
27
28 Q. BY MR. PIUZE: SO SIX DAYS AFTER THE
7770

1 OPERATION AND THE DIAGNOSIS OF MESOTHELIOMA, DID YOU WRITE

2 THAT LETTER AT MR. RELLER'S REQUEST, PLEASE?
3 A. YES.
4 Q. AND THAT LETTER, CAN YOU JUST READ IT FOR ME,
5 PLEASE?
6 A. (READING:)
7
8 NOVEMBER 27, 2000.
9 REGARDING RICK RELLER.
10 TO WHOM IT MAY CONCERN:
11 MR. RELLER WAS DIAGNOSED WITH
12 MALIGNANT MESOTHELIOMA OF THE LEFT
13 CHEST. HE WILL BE PERMANENTLY
14 DISABLED BECAUSE OF THIS CONDITION.
15 SINCERELY, JEAN ALLARD.
16
17 Q. OKAY. AND I'D LIKE TO SHOW YOU NO. 250,
18 PLEASE.
19 MS. WILKINSON: EXCUSE ME, YOUR HONOR.
20 THE COURT: 250 IS GOING TO BE WHAT?
21 MS. WILKINSON: CAN I HAVE ONE MINUTE WITH MR. PIUZE?
22 THE COURT: OF COURSE.
23
24 (SHORT PAUSE.)
25
26 MR. PIUZE: FORGET 250. DIDN'T HAPPEN. SORRY.
27 THE COURT: OKAY.
28 Q. BY MR. PIUZE: IS MESOTHELIOMA, FOR ALL INTENTS
7771
1 AND PURPOSES, BASICALLY CAUSED ONLY BY ASBESTOS?
2 A. PRETTY MUCH SO, YES.
3 Q. NOW, AT THE TIME THAT YOU WROTE THIS LETTER,
4 WERE YOU AWARE THAT THERE HAD BEEN SUBSEQUENT PATHOLOGY
5 REPORTS DONE AT YOUR HOSPITAL?
6 A. NO, I WAS NOT.
7 Q. AND AT THE TIME THAT YOU WROTE THIS LETTER,
8 WERE YOU AWARE -- I GUESS YOU COULDN'T BE AWARE THAT THERE
9 WAS GOING TO BE EVEN MORE PATHOLOGY DONE DOWN AT COUNTY-USC
10 MEDICAL CENTER?
11 A. I WAS UNAWARE OF THAT.
12 Q. LET ME SHOW YOU WHAT'S BEEN MARKED NOW AS 37,
13 WHICH FOR SOME REASON SHOWS UP BACKWARDS UP HERE.
14 DO YOU SEE THE DATE THERE, PLEASE?
15 A. NOVEMBER 21ST, 2000.
16 Q. AND DO YOU SEE THE DIAGNOSIS DOWN HERE, PLEASE?
17 A. NOT YET.
18 (READING:)
19
20 DIAGNOSIS. POORLY DIFFERENTIATED
21 ADENOCARCINOMA.
22
23 Q. COULD YOU CONTINUE READING THAT, PLEASE.
24 A. (READING:)
25
26 WITH FEATURES OF PREVIOUSLY
27 DIAGNOSED MALIGNANT
28 MESOTHELIOMA -- THEY GIVE THE NUMBER
7772
1 OF THE PATHOLOGY REPORT -- LEFT
2 PLEURAL EFFUSION FOR CYTOLOGY.
3
4 Q. THE EARLIER PATHOLOGY REPORT, 1590, WHICH I'VE
5 ALREADY SHOWED YOU, SAID MESOTHELIOMA, AND THEN THE LATER
6 PATHOLOGY REPORT, WHICH I'M SHOWING YOU NOW, SAYS

7 ADENOCARCINOMA.
8 DO I HAVE THAT RIGHT?
9 A. THAT WOULD BE CORRECT, YES.
10 Q. OKAY. THANK YOU.
11 AND I THINK THIS MAY BE THE LAST DOCUMENT I'M
12 GOING TO SHOW YOU. THIS IS 39. WELL, THE NUMBER IS UP
13 THERE, AGAIN, BACKWARDS.
14 DID YOU SEE THIS DOCUMENT WITHIN THE LAST
15 COUPLE OF MONTHS AT A DEPOSITION YOU GAVE?
16 A. YES, I DID.
17 Q. AND WAS IT THE FIRST TIME YOU SAW THIS
18 DOCUMENT?
19 A. YES, IT WAS.
20 Q. SIMILARLY, WITHIN THE LAST COUPLE OF MONTHS,
21 WAS THAT THE FIRST TIME YOU SAW THIS LATER DIAGNOSIS OF
22 ADENOCARCINOMA FROM DANIEL FREEMAN HOSPITAL?
23 A. YES.
24 Q. ANYWAY, WHEN YOU WERE SHOWN THIS PARTICULAR
25 DOCUMENT, NO. 39, FROM L.A. COUNTY-USC, DID YOU REVIEW IT?
26 A. I READ IT, YES.
27 Q. AND WERE YOU FAMILIAR WITH THE NAME OF AT LEAST
28 ONE OF THE PATHOLOGISTS DOWN THERE?

7773

1 A. YES. THE FIRST NAME THERE,
2 PARAKRAMA CHANDRASOMA, I'M FAMILIAR WITH HIS NAME.
3 Q. HOW?
4 A. WHENEVER THERE'S A DIFFICULTY WITH FINAL
5 DIAGNOSIS AT THE COMMUNITY HOSPITAL OR THE MEDICAL CENTERS
6 WHERE I WORK, THEY TYPICALLY WOULD CONSULT DR. CHANDRASOMA.
7 Q. WHY?
8 A. BECAUSE OF GREATER EXPERTISE, AND ALSO BECAUSE
9 OF THE FACILITY OF PERFORMING FOR SOPHISTICATED EVALUATIONS
10 THAT THEY CAN'T PERFORM AT THE HOSPITAL OF OUR LEVEL.
11 Q. OKAY. WHEN YOU TALK ABOUT COMMUNITY HOSPITALS
12 AT WHICH YOU PRACTICE, HOSPITALS OF YOUR LEVEL, THE TERM YOU
13 JUST USED, DOES THAT INCLUDE DANIEL FREEMAN AT THE MARINA?
14 A. YES.
15 Q. OKAY. AND I GUESS AT A BIG UNIVERSITY
16 HOSPITAL, LIKE L.A. COUNTY-USC, HAS, WHAT, BETTER EQUIPMENT
17 OR WHAT?
18 A. THEY HAVE MORE RESOURCES FOR POSSIBLY MORE
19 SOPHISTICATED PATHOLOGICAL EVALUATION AND THIS TYPE OF THING.
20 Q. THANKS.
21 ONE WAY OR OTHER, YOU'RE FAMILIAR WITH THIS
22 DOCTOR HAVING MADE CALLS ON CASES IN WHICH YOU WERE INVOLVED
23 IN THE PAST?
24 A. YES.
25 Q. SO WHEN YOU REVIEWED THIS PARTICULAR DOCUMENT
26 HERE -- YOU SEE WHAT I'VE GOT HIGHLIGHTED UP THERE, IN THE
27 BLUE?
28 A. YES.

7774

1 Q. DID YOU NOTICE THAT, ADENOCARCINOMA?
2 A. YES.
3 Q. ANYWAY, HERE'S WHAT I WANT TO KNOW.
4 AFTER HAVING REVIEWED THESE NEWER DOCUMENTS
5 HERE THAT YOU DIDN'T EVEN KNOW EXISTED, THIS ONE, EXHIBIT 37,
6 AND THIS ONE, EXHIBIT 39, WHAT'S YOUR OPINION; DOES
7 MR. RELLER HAVE ADENOCARCINOMA OR MESOTHELIOMA?
8 A. WITH THE SPECIAL STAINS THAT WERE PERFORMED AT
9 USC, IT WOULD BE DEFINITE THAT HE HAS ADENOCARCINOMA.
10 Q. ALL RIGHT. NOW, ARE -- I ALREADY ASKED YOU, IS
11 MESOTHELIOMA, FOR OUR PURPOSES, BASICALLY ALWAYS CAUSED BY

12 ASBESTOS, AND YOU SAID YES.
13 WHAT ABOUT ADENOCARCINOMA. IS ADENOCARCINOMA,
14 IN YOUR EXPERIENCE, ALMOST ALWAYS CAUSED BY SMOKING?
15 A. YES. ALMOST 100 PERCENT.
16 Q. IN YOUR PRACTICE OVER THE COURSE OF THE YEARS
17 DEALING WITH PEOPLE'S CHESTS, HOW MANY TIMES HAVE YOU SEEN AN
18 ADENOCARCINOMA PATIENT THAT WASN'T A SMOKER?
19 A. I DON'T REMEMBER THE EXACT NUMBERS. BUT A FEW
20 CASES, ONE OR TWO, ESPECIALLY IN WOMEN, I RECALL, WERE
21 NONSMOKERS, BUT THEY COULD HAVE BEEN EXPOSED TO SECONDHAND
22 SMOKE.
23 Q. SO ONE OUT OF TWO OUT OF HOW MANY?
24 HUNDREDS?
25 OR HOW MANY?
26 A. HUNDREDS.
27 Q. IN YOUR VIEW -- YOU KNOW MR. RELLER WAS A HEAVY
28 SMOKER?

7775

1 A. YES, HE WAS, OR IS.
2 Q. IN YOUR VIEW, WAS MR. RELLER'S ADENOCARCINOMA
3 CAUSED BY SMOKING?
4 A. OH, YES.
5 MR. PIUZE: OKAY. I'VE GOT NO FURTHER QUESTIONS OF
6 THIS WITNESS.
7 THE COURT: MS. WILKINSON.
8 MR. PIUZE: AND THANK YOU.
9 THE WITNESS: YOU'RE WELCOME.

10

11 CROSS EXAMINATION

12 BY MS. WILKINSON:

13 Q. GOOD MORNING, DR. ALLARD.
14 A. GOOD MORNING.
15 Q. IF I UNDERSTAND YOUR TESTIMONY THIS MORNING,
16 THEN, LOOKING AT 249 OF THIS LETTER, YOU WROTE WHAT YOU NOW
17 BELIEVE WAS WRONG WHEN YOU DIAGNOSED MR. RELLER WITH
18 MESOTHELIOMA, CORRECT?
19 A. THAT'S CORRECT.
20 Q. AND YOU RELY ON A PATHOLOGIST TO DO THAT
21 FURTHER TESTING TO HELP YOU WITH THE DIAGNOSIS WHEN SOMEONE
22 HAS SOME FORM OF LUNG CANCER OR CANCER IN THE PLEURA OR
23 SOMEWHERE IN THE CHEST CAVITY, CORRECT?
24 A. THAT'S CORRECT.
25 Q. YOU'RE NOT A PATHOLOGIST YOURSELF?
26 A. I'M A PATHOLOGIST BY TRAINING.
27 Q. YOU WROTE THIS LETTER BACK ON NOVEMBER 27TH,
28 2000. AND IT WAS ONLY RECENTLY THAT YOU SAW THE ADDITIONAL

7776

1 PATHOLOGY REPORTS THAT WERE DONE ON MR. RELLER, CORRECT?
2 A. THAT'S CORRECT.
3 Q. WERE YOU TOLD BY MR. PIUZE OR ANYONE FROM THE
4 DEFENSE -- FROM THE PLAINTIFF'S TEAM THAT DR. SAMUEL HAMMAR
5 HAD LOOKED AT THE PATHOLOGY OF MR. RELLER?
6 A. I'M NOT FAMILIAR WITH THAT NAME.
7 Q. SO YOU DON'T KNOW WHETHER DR. HAMMAR IS ONE OF
8 THE WORLD'S LEADING EXPERTS ON ADENOCARCINOMA AND, MORE
9 PARTICULARLY, THE TYPE OF ADENOCARCINOMA CALLED
10 PSEUDOMESOTHELIOMATOUS ADENOCARCINOMA?
11 A. I WAS TOLD THAT THIS MORNING BY MR. PIUZE, BUT
12 I WASN'T AWARE OF IT UNTIL THEN.
13 Q. SO NO ONE HAD SHARED THAT WITH YOU BEFORE YOU
14 GOT TO TESTIFY TODAY?
15 A. THAT'S RIGHT.
16 Q. BEFORE YOU SPOKE WITH MR. PIUZE THIS MORNING,

17 HAD YOU HEARD OF PSEUDOMESOTHELIOMATOUS ADENOCARCINOMA?
18 A. YES, I HAD. IT'S IN THE TEXTBOOKS.
19 Q. IT'S A VERY RARE DISEASE?
20 A. IT'S RARE FORM OF ADENOCARCINOMA, YES.
21 Q. ARE YOU AWARE THAT THERE'S ONLY ABOUT 160 CASES
22 REPORTED IN THE LITERATURE WORLDWIDE?
23 A. I WAS NOT AWARE OF THE NUMBER OF CASES UNTIL
24 THIS MORNING.
25 Q. AND YOU WOULD NOT BE ABLE TO SAY THAT YOU'RE
26 MORE OF AN EXPERT ON THAT THAN DR. HAMMAR WHO HAS WRITTEN
27 ABOUT PSEUDOMESOTHELIOMATOUS ADENOCARCINOMA, CORRECT?
28 A. I WOULD RELY ON DR. HAMMAR.

7777

1 MS. WILKINSON: I HAVE NO FURTHER QUESTIONS.
2 THANKS VERY MUCH.
3 THE COURT: MR. PIUZE.
4 MR. PIUZE: NO QUESTIONS.
5 THE COURT: MAY THIS WITNESS BE EXCUSED, MR. PIUZE?
6 MR. PIUZE: YES.
7 THE COURT: MS. WILKINSON?
8 MS. WILKINSON: YES, OF COURSE.
9 THE COURT: THANK YOU VERY MUCH FOR COMING, DOCTOR.
10 MS. WILKINSON: THANK YOU, DOCTOR.
11 THE WITNESS: YOU'RE WELCOME.
12 THE COURT: NEXT WITNESS.
13 MR. PIUZE: SO, YOUR HONOR, AT THIS TIME, I GUESS I
14 DON'T KNOW EXACTLY HOW TO SAY THIS, BUT I'M GOING TO CALL THE
15 PLAINTIFF, FREDRIC RELLER, AND PRESENT HIS TESTIMONY BY
16 VIDEOTAPE.

17

18 (FREDERIC RELLER VIDEOTAPE DEPOSITION
19 WAS PLAYED BY THE PLAINTIFF
20 AND REPORTED AS FOLLOWS:)

21

22 SIR, WOULD YOU RAISE YOUR
23 RIGHT HAND, PLEASE.
24 DO YOU SOLEMNLY SWEAR THAT
25 THE TESTIMONY YOU'RE ABOUT TO GIVE
26 WILL BE THE TRUTH, THE WHOLE TRUTH AND
27 NOTHING BUT THE TRUTH, SO HELP YOU
28 GOD?

7778

1 THE WITNESS: I DO
2 THANK YOU.
3 Q. HI.
4 A. HI.
5 Q. HOW ARE YOU DOING?
6 A. FINE.
7 Q. WHAT WERE YOU DOING THIS
8 MORNING, MR. RELLER?
9 A. WORKING.
10 Q. WHAT KIND OF WORK DO YOU DO?
11 A. WE HAVE AN EQUIPMENT LEASING
12 COMPANY.
13 Q. WHERE'S IT LOCATED?
14 A. [DELETED], CALIFORNIA.
15 Q. HOW LONG HAVE YOU BEEN IN THE
16 EQUIPMENT LEASING BUSINESS, PLEASE?
17 A. SINCE APPROXIMATELY 1977.
18 Q. HOW LONG HAVE YOU BEEN LIVING
19 IN LOS ANGELES, PLEASE?
20 A. SINCE 1972.
21 Q. OKAY. NOW, ARE YOU UNDERGOING

22 ANY KIND OF MEDICAL TREATMENT IN THE
23 LAST COUPLE OF WEEKS?
24 A. I AM.
25 Q. WHAT KIND OF TREATMENT,
26 PLEASE?
27 A. CHEMOTHERAPY.
28 Q. WHAT IS THE CHEMOTHERAPY FOR?
7779
1 A. LUNG CANCER.
2 Q. WHEN WERE YOU TOLD THAT YOU
3 HAD LUNG CANCER?
4 A. UM, APPROXIMATELY NOVEMBER
5 21ST, 2000.
6 Q. SO WE'RE TALKING ABOUT
7 SOMEPLACE IN THE VICINITY OF A YEAR
8 AND A HALF AGO?
9 A. THAT'S CORRECT.
10 Q. ARE YOU SCHEDULED FOR MORE
11 CHEMOTHERAPY IN THE FUTURE?
12 A. I AM.
13 Q. WHEN IS THE LAST TIME YOU HAD
14 CHEMOTHERAPY, PLEASE?
15 A. THIS LAST FRIDAY.
16 Q. DOES IT AFFECT YOU AT ALL?
17 A. IT DOES.
18 Q. TELL US A LITTLE BIT ABOUT
19 THAT.
20 A. IT MAKES -- IT GIVES ME
21 STOMACH CRAMPS AND GIVES ME
22 DIARRHEA -- OR, EXCUSE
23 ME -- CONSTIPATION. IT DEADENS THE
24 NERVE ENDINGS IN MY FEET AND IN MY
25 EXTREMITIES AND MY FINGERS. IT MAKES
26 IT DIFFICULT FOR ME TO CONCENTRATE
27 MENTALLY. AND GIVES ME SOME FATIGUE.
28 Q. ROUGHLY, WHEN'S THE FIRST TIME
7780
1 THAT YOU EVER HAD A CHEMOTHERAPY
2 TREATMENT?
3 A. ON NOVEMBER -- PARDON
4 ME -- DECEMBER -- MID DECEMBER 2001.
5 Q. NOW, HAVE YOU BEEN HAVING
6 CHEMOTHERAPY STRAIGHT ON EVER SINCE
7 MID DECEMBER 2001?
8 A. NO.
9 Q. JUST TELL US A LITTLE BIT
10 ABOUT WHEN YOU HAD IT, HOW OFTEN YOU
11 HAD IT, WHEN YOU STOPPED IT, WHEN YOU
12 RESTARTED IT.
13 A. I BEGAN CHEMOTHERAPY TREATMENT
14 MID -- EXCUSE ME. IT'S MID DECEMBER
15 2000. AND CONTINUED TO HAVE
16 CHEMOTHERAPY ON A WEEKLY BASIS WITH
17 EVERY THREE WEEKS ON, ONE WEEK OFF,
18 THROUGH JUNE 28TH, 2001. AND THEN HAD
19 NO ADDITIONAL CHEMOTHERAPY UNTIL THE
20 FIRST WEEK OF MAY 2002.
21 Q. SO THAT SOUNDS LIKE A BREAK OF
22 ABOUT ELEVEN MONTHS OR SO?
23 A. THAT'S CORRECT.
24 Q. HAVE YOU HAD ANY KIND OF
25 SURGERY?
26 A. I HAD EXPLORATORY SURGERY IN

27 NOVEMBER 2000, AND I HAD A BIOPSY
28 TAKEN.

7781

1 ADDITIONALLY, I HAD SURGERY TO
2 DRAIN MY LEFT LUNG ABOUT THE SAME
3 TIME.

4 Q. IS THAT THE EXTENT OF IT, AS
5 FAR AS SURGERY'S CONCERNED?

6 A. THAT'S THE EXTENT OF IT.

7 Q. SO MAYBE SOME OF US HAVE HEARD
8 SOMETIMES YOU SAYING, PEOPLE WITH LUNG
9 CANCER HAVE A LUNG REMOVED, PART OF A
10 LUNG REMOVED. NOTHING LIKE THAT HAS
11 HAPPENED TO YOU?

12 A. THAT'S CORRECT.

13 Q. OKAY. SINCE MAY NOW OF 2002,
14 WHERE DO YOU GET THAT CHEMOTHERAPY?

15 A. IN AN ONCOLOGY CENTER IN
16 MID-WILSHIRE IN LOS ANGELES.

17 Q. HOW DOES IT WORK?
18 HOW IS IT THAT THEY GIVE IT TO
19 YOU?

20 A. I ARRIVE AT THEIR FACILITY.
21 THEY PERFORM A BLOOD TEST TO MAKE
22 CERTAIN THAT MY BLOOD IS SUFFICIENT SO
23 THAT I WILL HAVE NO PROBLEM ACCEPTING
24 THE CHEMO. AND THEN THEY GIVE ME AN
25 INJECTION OF TEST -- NOT -- I'M TRYING
26 TO REMEMBER THE NAME OF -- ONE OF THE
27 THINGS WITH THE CHEMO IS THAT
28 I'VE -- IT'S AFFECTED, TO SOME DEGREE,

7782

1 MY ABILITY TO CONCENTRATE IN STRESSFUL
2 SITUATIONS.

3 Q. SO DO YOU THINK THIS IS A
4 STRESSFUL SITUATION?

5 A. YES.

6 Q. I'M THROWING YOU SOFTBALLS SO
7 FAR, MR. RELLER.

8 A. IT'S STILL STRESSFUL.
9 I CAN'T REMEMBER THE NAME OF
10 THE -- THE MEDICATION THEY PUT IN MY
11 SYSTEM. IT'S FOR BONE -- IT'S TO
12 STRENGTHEN MY BONES. AND ALSO, THEN
13 THEY GIVE ME THE CHEMO AND THEY GIVE
14 ME ALSO SOME KIND OF ANTIBIOTIC.

15 Q. OKAY. SO HERE'S WHAT I'M
16 AFTER. WHEN YOU ARE GETTING THE CHEMO
17 AT MID-WILSHIRE, HOW LONG DOES IT TAKE
18 TO GET THE CHEMO?

19 A. BETWEEN THREE AND FOUR HOURS.

20 Q. HOW IS THE CHEMOTHERAPY
21 ADMINISTERED TO YOU DURING THOSE THREE
22 TO FOUR HOURS?

23 A. INTRAVENOUSLY THROUGH ONE ARM
24 OR THE OTHER ONE, ONE HAND OR THE
25 OTHER HAND.

26 Q. AND IS THE GOAL OF THE
27 CHEMOTHERAPY TO USE THESE DRUGS THAT
28 ARE PUT IN YOU TO KILL OFF THOSE

7783

1 CELLS?

2 A. YES.

3 Q. HOW ARE YOU FEELING TODAY?
4 A. PHYSICALLY?
5 Q. YEAH.
6 A. A LITTLE WEAK.
7 Q. WHY DID YOU ANSWER THE
8 QUESTION THAT WAY, PHYSICALLY?
9 A. WELL, EMOTIONALLY, I'M A
10 LITTLE STRESSED, SO PHYSICALLY, I FEEL
11 LITTLE WEAK, AND EMOTIONALLY, I FEEL A
12 LITTLE STRESSED.
13 Q. ALL RIGHT. I'LL THROW YOU A
14 COUPLE OF MORE SOFTBALLS HERE.
15 WHERE WERE YOU BORN, SIR?
16 A. MINNEAPOLIS, MINNESOTA.
17 Q. WHERE DID YOU GROW UP?
18 A. IN MINNEAPOLIS, MINNESOTA.
19 Q. ROUGHLY, HOW OLD WERE YOU WHEN
20 YOU LEFT MINNEAPOLIS, MINNESOTA?
21 A. 20.
22 Q. I'D LIKE YOU TO TELL THE JURY
23 NOW, WHO MAY WELL BE VIEWING THIS
24 VIDEOTAPE, A LITTLE BIT ABOUT YOUR
25 FIRST 20 YEARS.
26 ARE YOU READY TO DO THAT?
27 A. UH-HUH.
28 Q. BEFORE YOU LEFT MINNESOTA,
7784 WERE YOU SMOKING CIGARETTES?
1 A. YES.
2 Q. HOW OLD WERE YOU WHEN YOU
3 STARTED SMOKING CIGARETTES?
4 A. APPROXIMATELY 15 YEARS OLD.
5 Q. HOW OLD ARE YOU NOW?
6 A. 63.
7 Q. WHAT YEAR WERE YOU BORN?
8 A. 1939.
9 Q. WHAT YEAR DID YOU START
10 SMOKING CIGARETTES?
11 A. 1955, APPROXIMATELY.
12 Q. HOW COME YOU STARTED SMOKING
13 CIGARETTES?
14 A. SOME OF THE YOUNG GUYS I WAS
15 HANGING AROUND WITH AND PALLING AROUND
16 WITH WERE SMOKING, AND I WANTED TO BE
17 PART OF THAT GROUP, AND I STARTED TO
18 SMOKE WITH THEM.
19 Q. DID PEOPLE IN YOUR FAMILY
20 SMOKE?
21 A. MY FATHER DID.
22 Q. DID HE SMOKE CIGARETTES?
23 A. HE DID.
24 Q. WHEN YOU WERE A KID GROWING
25 UP, A LITTLE KID, FOUR, FIVE, SIX,
26 BACK IN THOSE AGES, DO YOU RECALL
27 WHETHER YOUR DAD WAS SMOKING AT THOSE
28 TIMES?
7785 1 A. HE WAS.
2 Q. DO YOU EVER RECALL A TIME WHEN
3 YOUR DAD WASN'T SMOKING?
4 A. YES.
5 Q. WHEN WAS THAT?
6 A. WHEN HE QUIT.

8 Q. LET'S SAVE THAT FOR LATER.
9 AS A YOUNGSTER, DO YOU EVER
10 RECALL -- LIKE TWO, THREE, FOUR, FIVE,
11 DO YOU EVER RECALL YOUR YOUNGEST DAYS
12 WHEN YOUR DAD WASN'T SMOKING?
13 A. NO. HE SMOKED.
14 Q. NOW, THESE FRIENDS OF YOURS
15 WHO WERE SMOKING, THE FRIENDS THAT YOU
16 MENTIONED A LITTLE WHILE AGO, HOW OLD
17 WERE THEY WHEN YOU DECIDED YOU'D TAKE
18 UP SMOKING?
19 A. A YEAR, A YEAR AND A HALF
20 OLDER THAN I.
21 Q. WHICH WOULD MAKE THEM ABOUT 16
22 OR SO?
23 A. 16 AND A HALF.
24 Q. SO WHAT WAS IT ABOUT THE FACT
25 THAT THEY WERE SMOKING THAT LED YOU TO
26 THINK THAT MAYBE YOU SHOULD BE
27 SMOKING?
28 A. WELL, I LIKED THEM AND I
7786
1 RESPECTED THEM AND I WANTED TO BE PART
2 OF THE GROUP. AND IT SEEMED TO ME
3 THAT WOULD BE A NATURAL WAY TO BECOME
4 PART OF THE GROUP, IS TO SMOKE WITH
5 THEM.
6 Q. DID YOU THINK THAT MAYBE THERE
7 WAS SOME SORT OF A DOWNSIDE TO YOUR
8 BECOMING PART OF THE GROUP AND SMOKING
9 WITH THEM?
10 A. NO.
11 Q. DO YOU REMEMBER YOUR ACTUAL
12 FIRST CIGARETTE?
13 A. I DO.
14 Q. DID YOU LIKE IT?
15 A. NO, I DID NOT.
16 Q. WHY NOT?
17 A. IT MADE ME SICK TO MY STOMACH.
18 IT GAGGED ME. IT MADE MY EYES WATER.
19 IT MADE ME COUGH. IT TASTED TERRIBLE.
20 Q. SO GIVEN THE FACT THAT
21 SOMETHING MADE YOU SICK, GAGGING,
22 FEELING TERRIBLE, I GUESS THAT MEANS
23 YOU STAYED AWAY FROM IT AFTER THAT,
24 RIGHT?
25 A. FOR A WHILE.
26 Q. FOR WHAT KIND OF A WHILE,
27 PLEASE?
28 A. A YEAR AND A HALF.
7787
1 Q. AND WHY DID YOU GO BACK TO IT?
2 A. AS I SAID, I HAD A GROUP OF
3 FRIENDS AND THEY WERE SMOKING, AND I
4 WANTED TO BE PART OF THAT GROUP OF
5 FRIENDS. I WANTED TO DO WHAT THEY
6 WERE DOING AND TO JOIN IN.
7 Q. SAME FRIENDS OR DIFFERENT
8 FRIENDS?
9 A. DIFFERENT FRIENDS.
10 Q. SO NOW YOU'RE, WHAT, 16 YEARS
11 OLD?
12 A. YES.

13 Q. DID YOU LIKE YOUR SECOND
14 CIGARETTE?
15 A. NO.
16 Q. SAME REACTION?
17 A. VERY MUCH SO.
18 Q. AT THAT RATE, I GUESS YOU'VE
19 ONLY GOT LESS THAN A PACK OF
20 CIGARETTES YOUR WHOLE LIFE, RIGHT?
21 A. THAT'S CORRECT.
22 Q. HOW LONG WAS IT AFTER YOU HAD
23 YOUR SECOND CIGARETTE BEFORE YOU
24 DECIDED TO HAVE YOUR THIRD CIGARETTE?
25 A. A DAY.
26 Q. THIS TIME, INSTEAD OF WAITING
27 A YEAR AND A HALF, WHY IS IT THAT YOU
28 ONLY WAITED A DAY, MR. RELLER?
7788
1 A. I WAS SOCIALIZING WITH THESE
2 FRIENDS. THEY SMOKED. IT SEEMED
3 APPROPRIATE UNDER THE CIRCUMSTANCES
4 THAT I SMOKE, TOO.
5 Q. WHERE WAS IT THAT YOU WERE
6 DOING THE SMOKING?
7 WERE YOU GUYS HIDING OUT
8 SOMEPLACE BEHIND A BARN TO DO IT?
9 A. NO. IN A CAR, IN TOWN, RIDING
10 AROUND.
11 Q. IN PUBLIC?
12 A. IN PUBLIC.
13 Q. AFTER THE THIRD ONE THEN, HOW
14 DID IT TURN OUT YOU STARTED SMOKING
15 WITH SOME REGULARITY?
16 VOICE: OBJECT TO THE QUESTION
17 AS LEADING AND SUGGESTIVE.
18 Q. SO LET ME JUST TELL YOU,
19 MR. RELLER. EVERY TIME THERE'S AN
20 OBJECTION HERE, I MAKE A JUDGEMENT
21 CALL ON WHETHER OR NOT IT'S GOOD, WHAT
22 THE JUDGE WILL SAY. AND IF I GUESS
23 WRONG, THE JURY WON'T HEAR AN ANSWER.
24 SO, ANYWAY, SOMETIMES, I WILL
25 REPEAT THE QUESTION IN A SLIGHTLY
26 DIFFERENT WAY.
27 THAT'S THE REASON I'LL BE
28 DOING THAT. OKAY?
7789
1 A. FINE.
2 Q. TELL US, AFTER YOU HAD THAT
3 THIRD CIGARETTE, HOW LONG IT WAS
4 BEFORE YOU HAD THE FOURTH CIGARETTE?
5 A. A DAY.
6 Q. AND THE FIFTH CIGARETTE?
7 A. A DAY OR LESS.
8 Q. AND THE SIXTH?
9 A. LESS THAN A DAY.
10 Q. WHEN YOU WERE 16 AND YOU
11 STARTED SMOKING, WAS THERE -- DID YOU
12 REACH SOME SORT OF A LEVEL WHERE YOU
13 WERE SATISFIED TO SMOKE X-NUMBER OF
14 CIGARETTES PER MONTH OR PER WEEK, PER
15 DAY, ANYTHING LIKE THAT?
16 A. YES.
17 Q. TELL US ABOUT THAT.

18 A. GOT TO THE POINT OF MAYBE A
19 PACKAGE OF CIGARETTES EVERY THREE DAYS
20 SEEMED TO BE ABOUT THE CONSUMPTION
21 LEVEL AND IS ABOUT WHAT I USED.
22 Q. WHEN YOU WERE 16, WHAT YEAR DO
23 YOU THINK THAT WAS?
24 A. 1956. OR '55. '55 OR '56.
25 Q. HOW MUCH DID CIGARETTES COST
26 ABOUT '55 OR '56?
27 A. TWENTY-FIVE CENTS.
28 Q. APIECE?
7790
1 A. A PACKAGE.
2 Q. WHERE DID YOU GET MONEY TO BUY
3 CIGARETTES, PLEASE?
4 A. I HAD A PART-TIME JOB, WORKED
5 IN A DRUGSTORE.
6 Q. WHAT DID YOU DO IN A
7 DRUGSTORE?
8 A. STOCK CLERK, SODA FOUNTAIN
9 PERSON, DELIVERIES, ERRANDS, NORMAL
10 STUFF.
11 Q. WHERE DID YOU BUY THE
12 CIGARETTES?
13 A. AT THE DRUGSTORE AND THE GAS
14 STATION CLOSE TO MY HOME.
15 Q. WHEN YOU WENT TO THE GAS
16 STATION, WOULD YOU BUY IT OVER THE
17 COUNTER OR MACHINE?
18 A. MACHINE.
19 Q. AT THE DRUGSTORE, HOW DID YOU
20 BUY IT?
21 A. OVER THE COUNTER.
22 Q. BACK IN 1955 OR '56, I'D LIKE
23 YOU TO TELL US BASED ON YOUR
24 RECOLLECTION WHAT PERCENTAGE OF ADULTS
25 SMOKED?
26 A. I'M SORRY. COULD YOU REPEAT
27 THAT.
28 Q. BACK AROUND 1955 OR '56, BASED
7791
1 ON YOUR RECOLLECTION, I'D LIKE YOU TO
2 TELL ME WHAT PERCENTAGE OF ADULTS
3 SMOKED, PLEASE.
4 VOICE: OBJECTION. LACKS
5 PERSONAL KNOWLEDGE.
6 A. THE MAJORITY OF THE ADULT
7 MALES, TO MY MEMORY, IN THE AREA THAT
8 WE LIVED IN, SEEMED TO ALL SMOKE. AND
9 THE MAJORITY OF THE ADULT WOMEN DID
10 NOT.
11 Q. MAJORITY MEANS 50 PERCENT OR
12 MORE?
13 A. MUCH GREATER THAN 50 PERCENT.
14 Q. WHAT KIND OF CIGARETTES DID
15 YOU SMOKE?
16 A. PALL MALL.
17 Q. HOW DID YOU CHOOSE PALL MALL?
18 A. I REALLY -- I'M NOT 100
19 PERCENT CERTAIN HOW I DID THAT. I
20 HAVE A VAGUE RECOLLECTION THAT THOSE
21 FRIENDS WERE SMOKING THOSE CIGARETTES
22 AND THAT WAS THE CIGARETTE THAT THEY

23 WERE GIVING ME TO START, AND I THINK
24 THAT'S HOW I STARTED SMOKING THAT
25 BRAND.
26 Q. NOW, DID PALL MALLS HAVE A
27 FILTER ON THEM?
28 A. NO, THEY DID NOT.
7792
1 Q. AT THE TIME YOU STARTED TO
2 SMOKE, DID MOST CIGARETTES HAVE
3 FILTERS ON THEM?
4 A. I REALLY DON'T REMEMBER.
5 Q. WERE PALL MALLS A KING-SIZE
6 CIGARETTE?
7 A. I REALLY DON'T REMEMBER.
8 Q. DO YOU KNOW IF THERE WERE MORE
9 THAN ONE SIZE OF CIGARETTES AROUND THE
10 TIME --
11 A. YES.
12 Q. -- YOU STARTED SMOKING?
13 A. THERE WERE.
14 Q. DO YOU KNOW IF PALL MALL WERE
15 LONGER, SHORTER, OR BOTH?
16 A. BOTH.
17 Q. NOW, HOW LONG DID YOU STICK
18 WITH PALL MALL?
19 A. THROUGH THE EARLY '60'S.
20 Q. WHAT DID THEY TASTE LIKE?
21 A. TASTED LIKE TOBACCO.
22 Q. HAVE YOU SMOKED DIFFERENT
23 CIGARETTES OVER THE COURSE OF THE
24 YEARS?
25 A. I HAVE.
26 Q. CAN YOU TASTE THE DIFFERENCE?
27 A. YES.
28 Q. HOW?
7793
1 HOW DO YOU TELL?
2 A. SOME ARE DRIER. SOME ARE
3 MENTHOLATED; SOME AREN'T. THEY HAVE
4 DIFFERENT TASTES.
5 Q. LET'S FORGET THE MENTHOLATED
6 ONES, AT LEAST JUST FOR A WHILE, AND
7 JUST STICK WITH STRAIGHT TOBACCO
8 TASTE.
9 HOW DO THE TASTES VARY?
10 IS THERE ANY WAY IN THE WORLD
11 YOU CAN TELL US THIS?
12 A. CAN YOU ASK THE QUESTION
13 AGAIN.
14 Q. SURE.
15 PUTTING ASIDE THE MENTHOL
16 PART, BECAUSE WE'LL TALK ABOUT THAT
17 LATER, BUT PUTTING ASIDE THE MENTHOL
18 PART, IS THERE A WAY FOR YOU TO
19 DESCRIBE TO NONSMOKERS ON THE JURY
20 THAT MIGHT BE LISTENING TO THIS TAPE
21 AND WATCHING THIS TAPE HOW THE TASTE
22 OF CIGARETTES DIFFER?
23 A. SOME ARE STRONGER AND MORE
24 TOBACCO TASTE. SOME ARE LESS STRONG,
25 LESS TOBACCO TASTE. SOME ARE DRY.
26 DRY TO THE POINT OF MAYBE IRRITATING
27 YOUR THROAT. SOME AREN'T.

28 THOSE ARE THE BASIC
7794
1 DIFFERENCES.
2 Q. BEFORE YOU STARTED SMOKING
3 PALL MALLS FOR A PERIOD -- WELL OVER
4 FIVE YEARS, HAD YOU AT LEAST TASTED
5 CIGARETTES?
6 A. YES, I HAD.
7 Q. WHAT WAS THERE ABOUT PALL MALL
8 THAT APPEALED TO YOU, AS OPPOSED TO
9 THESE OTHER CIGARETTES APPEALING TO
10 YOU?
11 A. IT WAS JUST WHAT I HAD GOTTEN
12 USED TO. IT JUST WAS WHAT I HAD
13 GOTTEN USED TO PURCHASING. I DIDN'T
14 THINK ABOUT WHAT WAS BETTER ABOUT THAT
15 CIGARETTE OR NOT QUITE AS GOOD ABOUT
16 THAT CIGARETTE. IT WAS JUST WHAT I
17 WAS USED TO.
18 Q. OKAY.
19 SO YOU TOLD US THAT WHEN YOU
20 WERE 16 AND YOU GOT GOING WITH THE
21 CIGARETTES, AND A PACK WOULD LAST YOU
22 ABOUT THREE DAYS.
23 WHAT ABOUT WHEN YOU SWITCHED
24 OVER TO PALL MALL MORE THAN FIVE YEARS
25 LATER, WERE YOU SMOKING THE SAME
26 AMOUNT, MORE, OR LESS?
27 A. I WAS SMOKING MORE.
28 Q. WHY?
7795
1 A. I JUST SEEMED TO WANT MORE. I
2 DESIRED MORE. WANTED TO SMOKE MORE.
3 Q. HOW COULD YOU TELL -- THIS
4 SOUNDS LIKE A DUMB QUESTION -- MAYBE
5 IT IS -- HOW COULD YOU TELL THAT YOU
6 WANTED TO SMOKE?
7 A. I GET AN URGE TO SMOKE ON A
8 MORE REGULAR BASIS.
9 Q. ALL RIGHT. NOW, DID YOU GO TO
10 SCHOOL IN THE MINNEAPOLIS AREA?
11 A. I DID.
12 Q. DID YOU GO TO -- WERE THERE
13 SUCH THINGS AS JUNIOR HIGH SCHOOLS
14 BACK THEN?
15 A. THERE WERE.
16 Q. DID YOU GO TO ONE OF THOSE?
17 A. I DID.
18 Q. DID YOU GO TO HIGH SCHOOL?
19 A. I DID.
20 Q. DID YOU GRADUATE FROM BOTH OF
21 THOSE PLACES?
22 A. I DID.
23 Q. THIS MAY BE PUSHING IT A BIT,
24 BUT DO YOU REMEMBER WHEN YOU GRADUATED
25 HIGH SCHOOL?
26 A. 1957.
27 Q. 1957.
28 WHO WAS PRESIDENT?
7796
1 A. I DON'T REMEMBER.
2 Q. WHEN YOU WENT TO SCHOOL, DID
3 YOU PLAY ANY SPORTS?

4 A. I DID.
5 Q. WHAT SPORTS DID YOU PLAY?
6 A. BASKETBALL AND TRACK.
7 Q. WHAT DID YOU DO AS FAR AS
8 TRACK IS CONCERNED?
9 A. I RAN THE 440-YARD DASH.
10 Q. WHY DON'T YOU GIVE US AN IDEA
11 OF YOUR SIZE BACK THEN. AND, LET'S
12 SAY, WHEN YOU GRADUATED HIGH SCHOOL,
13 COULD YOU TELL US YOUR HEIGHT AND
14 WEIGHT.
15 A. I WAS 6 FEET TALL AND WEIGHED
16 ABOUT 145 TO 150 POUNDS.
17 Q. WHAT ABOUT NOW, MR. RELLER?
18 A. I'M A LITTLE BIT SHORTER AND
19 WEIGH ABOUT 194 POUNDS.
20 Q. A LITTLE SHORTER AND A COUPLE
21 OF POUNDS HEAVIER?
22 A. YES.
23 Q. DID YOUR COACHES IN HIGH
24 SCHOOL EVER SAY ANYTHING TO YOU,
25 EITHER INDIVIDUALLY OR AS PART OF A
26 GROUP, ABOUT SMOKING CIGARETTES?
27 A. THEY DID.
28 VOICE: OBJECTION.
7797
1 Q. TELL US THE WORDS TO THE BEST
2 OF YOUR RECOLLECTION THAT WERE STATED
3 EITHER TO YOU INDIVIDUALLY OR TO A
4 GROUP BY THE COACHES AS FAR AS SMOKING
5 WAS CONCERNED.
6 A. THAT SMOKING WOULD REDUCE OUR
7 LUNG CAPACITY, OUR ENDURANCE CAPACITY,
8 AND THAT IT WAS NOT APPROPRIATE TO BE
9 SMOKING AND TO BE ON THE TEAM.
10 Q. OKAY. NOW, WAS THIS TO YOU
11 INDIVIDUALLY OR WAS THIS TO THE GROUP?
12 A. TO THE GROUP.
13 Q. DID YOU KNOW MOST OF YOUR
14 TEAMMATES PRETTY WELL?
15 A. I DID.
16 Q. DID MOST OF THEM SMOKE?
17 A. SOME OF THEM SMOKED.
18 Q. DID YOU HEED YOUR COACH'S
19 ADVICE?
20 A. NO.
21 Q. WERE THERE OTHER MEMBERS OF
22 THE TEAM THAT DID NOT HEED THE COACH'S
23 ADVICE?
24 A. YES.
25 Q. NOW, SPECIFICALLY, BEYOND
26 SAYING THIS ISN'T GOOD FOR YOUR WIND,
27 IT ISN'T GOOD FOR AN ATHLETE, WAS
28 THERE ANY FURTHER WARNINGS BY THE
7798
1 COACHES ABOUT CIGARETTES?
2 A. NO, THERE WAS NOT.
3 VOICE: OBJECTION.
4 Q. DID YOU SEE ANY OF YOUR
5 TEACHERS IN SCHOOL SMOKE?
6 A. YES, I DID.
7 Q. DID YOU EVER -- AND AGAIN,
8 THIS DOESN'T HAVE TO BE YOU

9 INDIVIDUALLY -- BUT EITHER YOU AS AN
10 INDIVIDUAL PERSON OR YOU AS PART OF A
11 GROUP, DID YOU GET ANY KIND OF
12 LECTURES OR TALKS BY THE TEACHERS
13 ABOUT SMOKING?

14 A. NO.

15 Q. DID YOU GET ANY KIND OF
16 LECTURES OR TALKS BY THE PRINCIPALS
17 ABOUT TALKING?

18 A. NO.

19 Q. BY ANYONE ASSOCIATED WITH THE
20 SCHOOL ADMINISTRATION ABOUT SMOKING?

21 A. NO.

22 Q. ASIDE FROM WHAT YOU'VE TOLD US
23 HERE ABOUT WHAT THE COACHES HAD TO
24 SAY, DID ANYONE ELSE ASSOCIATED WITH
25 YOUR SCHOOL EVER SAY ANYTHING BAD
26 ABOUT SMOKING?

27 A. NO.

28 Q. NOW, EXPLAIN HOW IT IS THAT

7799

1 YOU KNEW THAT YOUR TEACHERS WERE
2 SMOKING?

3 A. THERE WAS A FACULTY LOUNGE
4 WHERE THE TEACHERS WOULD GO FOR LUNCH
5 AND FOR BREAKS, COFFEE BREAKS OR SMOKE
6 BREAKS. THAT DOOR WAS OPEN ON A
7 REGULAR BASIS, AND IT HAD A WINDOW IN
8 IT, AND IT WAS EASY TO SEE THEM
9 SMOKING IN THE ROOM.

10 Q. WAS IT JUST LIKE ONE OR TWO OF
11 THE TEACHERS THAT WERE SMOKING, OR WAS
12 IT PRETTY REGULAR FOR THEM?

13 A. IT WAS CERTAINLY MORE THAN ONE
14 OR TWO.

15 Q. WERE THE KIDS ALLOWED TO SMOKE
16 ON THE SCHOOL GROUNDS?

17 A. NO.

18 Q. BUT THE TEACHERS WERE ALLOWED
19 TO SMOKE ON SCHOOL GROUNDS?

20 A. YES.

21 Q. WHEN YOU WOULD GO OUT -- I
22 GUESS WE SHOULD ESTABLISH. AS A
23 TEENAGER IN THE MINNEAPOLIS AREA, 16,
24 17 YEARS OLD, WOULD YOU SOMETIMES GO
25 OUT TO RESTAURANTS?

26 A. YES.

27 Q. AND YOU'D SOMETIMES GO OUT,
28 DRIVING AROUND WITH THE GUYS?

7800

1 A. YES.

2 Q. WITH A LITTLE BIT OF LUCK,
3 SOMETIMES DRIVING AROUND WITH THE
4 GIRLS?

5 A. YES.

6 Q. GO TO MOVIES MAYBE?

7 A. YES.

8 Q. YOU WERE A FAIRLY SOCIAL
9 PERSON, WOULD YOU SAY?

10 A. YES.

11 Q. WHEN YOU WERE OUT AMONGST THEM
12 AS A 16 AND 17 YEARS OLD IN THE
13 MINNEAPOLIS AREA, DID YOU EVER TRY TO

14 HIDE THE FACT THAT YOU WERE SMOKING?
15 A. NO.
16 Q. DID ANY YOUR FRIENDS TRY TO
17 HIDE THE FACT THAT YOU THEY WERE
18 SMOKING?
19 A. NO.
20 Q. IN MINNEAPOLIS IN THE YEARS
21 WHEN YOU WERE 16 AND 17, IN THAT AREA,
22 IF YOU WENT INTO A RESTAURANT, COULD
23 YOU JUST SIT DOWN AND SMOKE A
24 CIGARETTE WHILE YOU WERE HAVING SOME
25 FOOD?
26 A. YES.
27 Q. WAS THAT COMMONLY DONE?
28 A. YES.
7801
1 Q. DID YOU DO THAT?
2 A. YES.
3 Q. LET'S SWITCH GEARS HERE A
4 LITTLE BIT. DID YOU SOMEHOW MAKE IT
5 KNOWN TO YOUR PARENTS THAT YOU WERE
6 SMOKING CIGARETTES?
7 A. YES, I DID.
8 Q. EXPLAIN HOW THAT HAPPENED.
9 A. I WAS DOING SOME HOMEWORK IN
10 THE BASEMENT OF THE HOUSE AND SMOKING
11 IN MY PARENTS' ABSENCE, AND WHEN MY
12 PARENTS CAME HOME, SPECIFICALLY MY
13 FATHER, HE COULD SMELL THE CIGARETTE
14 SMOKE IN THE BASEMENT AND ADVISED ME
15 THAT I WOULD NOT BE ALLOWED TO SMOKE
16 IN THE HOUSE UNTIL I WAS 18 YEARS OLD
17 OR IN HIS PRESENCE UNTIL I WAS 18
18 YEARS OLD.
19 Q. AT THIS TIME, WAS YOUR FATHER
20 SMOKING CIGARETTES?
21 A. HE WAS.
22 Q. DID HE TELL YOU YOU SHOULD NOT
23 SMOKE CIGARETTES OUTSIDE YOUR HOUSE?
24 A. HE ONLY TOLD ME THAT I WAS NOT
25 TO BE SMOKING CIGARETTES IN HIS
26 PRESENCE OR IN THE HOUSE UNTIL I WAS
27 18 YEARS OLD.
28 Q. OKAY. AND DID YOU OBEY HIM?
7802
1 A. I DID.
2 Q. DID YOU CONTINUE TO SMOKE
3 CIGARETTES OUTSIDE OF THE HOUSE AND
4 NOT IN HIS PRESENCE?
5 A. I DID.
6 Q. BACK TO THE LATE TO MID '50S,
7 WHICH IS THE TIME PERIOD WE'RE
8 DISCUSSING SO FAR, WAS IT BROUGHT TO
9 YOUR ATTENTION IN ANY WAY THAT
10 ATHLETES OR ENTERTAINERS OR PEOPLE WHO
11 MIGHT OR SHOULD BE LOOKED UP TO WOULD
12 ENDORSE THE CONCEPT OF SMOKING?
13 A. YES.
14 Q. HOW WAS THAT?
15 A. ADVERTISEMENTS, TELEVISION
16 COMMERCIALS, TELEVISION SHOWS, MOVIES.
17 Q. WHEN YOU WERE A KID, DID YOU
18 HAVE TELEVISION IN YOUR HOUSE BY THE

19 LATE '50S?
20 A. YES.
21 Q. DID YOU WATCH IT WITH SOME
22 REGULARITY?
23 A. YES.
24 Q. THERE MAY BE PEOPLE ON THE
25 JURY NOW WHO ARE TOO YOUNG FOR THIS,
26 BUT WERE CIGARETTES ADVERTISED ON
27 TELEVISION?
28 A. YES, THEY WERE.

7803
1 Q. WAS THIS COMMON AT THE TIME?
2 A. IT WAS.
3 Q. DO YOU REMEMBER ANY OF THE
4 SHOWS THAT YOU USED TO WATCH WHERE
5 CIGARETTES WERE ADVERTISED?
6 A. THERE WAS A SHOW CALLED -- I
7 DON'T REMEMBER THE NAME OF THE SHOW,
8 BUT I REMEMBER THE OLD GOLD HAD
9 DANCING CIGARETTE BOXES WITH WOMEN
10 DANCING.
11 PHILIP MORRIS HAD A FAMOUS
12 COMMERCIAL WHERE THERE WAS A MAN,
13 CALLING FOR PHILIP MORRIS, I GUESS IN
14 A HOTEL AT THE TIME. THERE WAS
15 SOMEONE WHO WOULD GO OUT AND ASK FOR
16 OR CALL FOR PEOPLE OR THE MESSAGES.
17 THAT WAS A VERY FAMOUS ONE I REMEMBER
18 VERY, VERY CLEARLY.
19 CERTAINLY, ADVERTISEMENTS IN
20 MAGAZINES, WHICH WOULD HAVE SPORTS
21 FIGURES ENDORSING THE CIGARETTE THAT
22 THEY WERE SMOKING.
23 Q. WERE THERE OCCASIONS WHERE YOU
24 SAW COMMERCIALS WHERE DOCTORS WERE
25 ENDORSING --
26 A. YES, THERE WERE.
27 Q. -- CERTAIN BRANDS OF
28 CIGARETTES?

7804
1 A. YES, THERE WERE.
2 Q. I WANT -- THIS IS A LONG TIME
3 AGO, BUT WHAT WERE THE DOCTORS SAYING
4 ABOUT CIGARETTES?
5 HOW WERE THEY ENDORSING
6 CIGARETTES?
7 A. THAT THEY SMOKED. THAT THEY
8 WERE A SMOKER OF A PARTICULAR PRODUCT
9 WAS THE STRONGEST PART OF THE
10 ENDORSEMENT.
11 Q. OKAY. ON TELEVISION, PUTTING
12 ADS ASIDE FOR A MOMENT, WAS SMOKING
13 FEATURED AS PART OF THE SHOWS THAT YOU
14 WERE WATCHING?
15 A. IT WAS.
16 Q. CAN YOU TELL US A LITTLE BIT
17 ABOUT THAT?
18 A. ON A REGULAR BASIS, CHARACTERS
19 ON THE SHOWS WOULD BE SMOKING. I
20 REMEMBER SPECIFICALLY JACKIE GLEASON
21 WAS A REGULAR SMOKER ON TELEVISION
22 WHILE HE WAS DOING HIS SHOW.
23 I ALSO REMEMBER THAT

24 JOHNNY CARSON WAS A REGULAR SMOKER ON
25 TELEVISION WHILE HE WAS DOING HIS
26 SHOW. THOSE, I REMEMBER VIVIDLY AS A
27 PART OF THE TELEVISION SHOW AND
28 SMOKING BEING PART OF IT, AND THE

7805

1 ENTERTAINER OR THE ACTOR, ACTRESS
2 SMOKING.

3 Q. BACK AROUND THE MID TO
4 LATE '50S, ASIDE FROM
5 YOUR -- AS A STUDENT'S INABILITY TO
6 SMOKE IN A PUBLIC HIGH SCHOOL, CAN YOU
7 THINK OF ANY -- CAN YOU RECALL ANY
8 OTHER RESTRICTIONS ON SMOKING AT ALL?

9 A. NONE.

10 Q. HOW OLD WERE YOU WHEN YOU GOT
11 ON YOUR FIRST AIRPLANE, MR. RELLER?

12 A. HOW OLD WAS I WHEN I GOT MY
13 FIRST AIRPLANE TRIP?

14 Q. YEAH.

15 A. 21.

16 Q. SO WE'RE A LITTLE AHEAD OF THE
17 GAME. BUT LET'S JUST STAY THERE A
18 LITTLE WHILE.

19 WHEN YOU GOT ON YOUR FIRST
20 AIRPLANE, WAS SMOKING ALLOWED IN THE
21 AIRPLANE?

22 A. IT WAS.

23 Q. AFTER YOU WERE 21, BECAUSE OF
24 BUSINESS AND OTHER REASONS, WERE THERE
25 TIMES WHEN YOU FLEW ON AIRPLANES A
26 LOT?

27 A. YES, THERE WERE.

28 YES, THERE WERE.

7806

1 Q. WHEN YOU GOT OUT OF HIGH
2 SCHOOL, WHAT DID YOU DO?

3 DID YOU GET A JOB?

4 DID YOU GO SCHOOL?

5 DID YOU JOIN THE MARINES?

6 A. WENT TO THE HASTINGS COLLEGE
7 IN HASTINGS, NEBRASKA, FOR ABOUT SIX
8 MONTHS.

9 Q. AND I GUESS IF YOU WENT FOR
10 ONLY SIX MONTHS, YOU DIDN'T GRADUATE?

11 A. THAT'S CORRECT.

12 Q. WHAT DID YOU DO AFTER THAT?

13 A. WENT TO THE UNIVERSITY OF
14 MINNESOTA FOR ANOTHER THREE MONTHS.
15 AND THEN STARTED WORKING.

16 Q. SAME COMMENT FROM ME. THREE
17 MONTHS DOESN'T EQUAL DIPLOMA?

18 A. THAT'S CORRECT.

19 Q. WHAT KIND OF STUDENT WERE YOU?

20 A. AN AVERAGE STUDENT.

21 Q. WE'RE TALKING ABOUT B'S AND
22 C'S?

23 A. B'S AND C'S.

24 Q. AFTER SIX MONTHS AT HASTINGS
25 AND THREE MONTHS AT UNIVERSITY OF
26 MINNESOTA, DID YOU EVER GO TO COLLEGE
27 AGAIN AFTER THAT?

28 A. NO, I DID NOT.

7807

1 Q. SINCE THAT TIME, HAVE YOU BEEN
2 A WORKER?

3 A. I HAVE.

4 Q. DO YOU LIKE BEING A WORKER?

5 A. YES.

6 Q. DO YOU HAVE ANY THOUGHTS ABOUT
7 HOW GOOD OR BAD A WORKER YOU ARE?

8 A. I'M A GOOD WORKER.

9 Q. WHEN YOU STARTED OFF YOUR WORK
10 CAREER, I KNOW WORKING FROM HIGH
11 SCHOOL, YOU ALREADY TOLD US THAT, BUT
12 AFTER THAT AND AFTER NINE MONTHS OF
13 COLLEGE, WHAT IS IT THAT YOU STARTED
14 DOING?

15 A. I WORKED IN A MEN'S CLOTHING
16 STORE AS A MEN'S CLOTHING SALESMAN.

17 Q. WHERE WAS THAT?

18 A. ORIGINALLY IN MINNEAPOLIS.

19 Q. AND I DON'T WANT TO SPEND A
20 LOT OF TIME ON THAT.

21 SELL A LOT OF CLOTHES?

22 A. YES.

23 Q. WARM CLOTHES?

24 A. YES.

25 Q. HOW LONG DID YOU DO THAT,
26 PLEASE?

27 A. ABOUT NINE MONTHS. MY FAMILY
28 MOVED TO FLORIDA, AND I JOINED MY

7808

1 FAMILY IN THAT MOVE TO FLORIDA.

2 Q. NOW, WHEN YOU'RE TALKING ABOUT
3 YOUR FAMILY, YOU'RE TALKING ABOUT YOUR
4 MOM AND YOUR DAD?

5 A. AND MY TWO BROTHERS.

6 Q. WHERE DID YOU GO IN FLORIDA,
7 PLEASE?

8 A. WINTER PARK, WHICH IS A SUBURB
9 OF ORLANDO.

10 Q. ONCE YOU GOT DOWN THERE, DID
11 YOU WORK AGAIN?

12 A. I DID. I WORKED IN A MEN'S
13 CLOTHING STORE AND SOLD MEN'S
14 CLOTHING.

15 Q. FOR ABOUT HOW LONG DID YOU DO
16 THAT?

17 A. FOR AS LONG AS THE FAMILY
18 LIVED THERE, WHICH WAS ABOUT A YEAR.
19 AND MY FATHER WAS THEN TRANSFERRED
20 AGAIN TO MIAMI, AND I MOVED AGAIN TO
21 MIAMI WITH MY FAMILY, MY PARENTS AND
22 MY BROTHERS, AND WENT TO WORK FOR
23 SEARS & ROEBUCK, MEN'S CLOTHING
24 DEPARTMENT, SELLING MEN'S CLOTHING.

25 Q. AND WHY DID YOU STOP SELLING
26 MEN'S CLOTHING AT SEARS & ROEBUCK?

27 A. THE COMPANY THAT MY FATHER
28 WORKED FOR HAD AN OPENING FOR A

7809

1 SALESMAN. HE THOUGHT IT WOULD BE A
2 GOOD JOB FOR ME TO HAVE. I AGREED
3 WITH HIM AND I WENT TO WORK FOR THAT
4 COMPANY.

5 Q. DOING WHAT?
6 A. THEY WERE MANUFACTURERS OF
7 INDUSTRIAL RUBBER PRODUCTS. THEY MADE
8 HOSES AND CONVEYOR BELTS AND FEED
9 BELTS AND THAT KIND TYPE OF THING,
10 INDUSTRIAL PRODUCTS.
11 Q. JUST GIVE THE JURY AN IDEA HOW
12 OLD YOU WERE WHEN YOU SWITCHED FROM
13 BEING A CLOTHING SALESPERSON TO
14 GETTING INTO THE INDUSTRIAL PRODUCTS.
15 A. I WAS 22, SHORTLY TO BE 23.
16 Q. SO LET'S STOP THERE. SWITCH
17 SUBJECTS AGAIN.
18 WHEN YOU WERE ABOUT TO BE 23,
19 WERE YOU STILL SMOKING PALL MALL?
20 A. I WAS.
21 Q. BY THE TIME YOU WERE ABOUT TO
22 BE 23, WITH WHAT FREQUENCY WERE YOU
23 SMOKING?
24 I JUST SAID PALL MALL.
25 BEFORE, YOU SAID PALL MALL. YOU TELL
26 ME. IT WAS YOUR BRAND. PALL MALL?
27 A. PALL MALL.
28 Q. WHEN YOU WERE ABOUT TO BE 23,
7810 HOW MANY PALL MALLS WERE YOU SMOKING A
1 DAY OR A WEEK?
2
3 A. MORE THAN A PACKAGE A DAY.
4 Q. DO YOU REMEMBER BEFORE, I
5 ASKED YOU, AS A 16-YEAR-OLD, WHY YOUR
6 USAGE INCREASED?
7 A. YES.
8 Q. SO SAME QUESTION NOW. OVER A
9 PERIOD OF TIME UP UNTIL YOU WERE ABOUT
10 TO BE 23, WHY DID YOUR USAGE INCREASE?
11 A. I SEEMED TO WANT OR DESIRE TO
12 SMOKE MORE. I HAD MORE AND MORE URGES
13 TO SMOKE.
14 Q. FOR THOSE OF THE PEOPLE ON THE
15 JURY WHO HAVE NEVER SMOKED, IS THERE A
16 BETTER OR DIFFERENT WAY YOU CAN
17 DESCRIBE URGES AND DESIRES?
18 A. I REALLY -- IF YOU HAVEN'T
19 SMOKED, IT'S HARD TO DESCRIBE IT. YOU
20 SEEM TO, WITHOUT GIVING IT MUCH
21 CONSCIOUS THOUGHT, IF ANY CONSCIOUS
22 THOUGHT, YOU SEEM TO REFLECTIVELY BE
23 REACHING FOR A CIGARETTE OR BY REFLEX
24 DOING IT AS OPPOSED TO THINKING ABOUT
25 DOING IT.
26 AND SOMETIMES, YOU'RE LIGHTING
27 ONE BEFORE YOU'RE EVEN AWARE YOU'RE IN
28 THE ACT OF DOING IT.
7811
1 BUT YOU DO HAVE A PHYSICAL
2 DESIRE TO SMOKE A CIGARETTE. IT'S NOT
3 AT ALL THE SAME AS A PHYSICAL DESIRE
4 TO HAVE A DRINK OF WATER. BUT THERE
5 IS THAT DESIRE TO QUENCH WITH WATER,
6 THE THIRST. AND WITH TOBACCO, IN MY
7 CASE, IT WAS A DESIRE TO QUENCH THE
8 DESIRE TO SMOKE OR TO QUELL THE DESIRE
9 TO SMOKE, OR TO-- THAT'S THE BEST WAY

10 I CAN DESCRIBE IT ACTUALLY.
11 Q. THANK YOU.
12 EARLIER, YOU MENTIONED TO US
13 THAT YOUR DAD QUIT SMOKING AT SOME
14 POINT.
15 DO YOU RECALL THAT?
16 A. YES.
17 Q. WHEN WAS THAT?
18 A. APPROXIMATELY 1962 OR 1963.
19 Q. WHEN YOU WERE ABOUT TO TURN
20 23, THAT'S AROUND THAT SAME EXACT
21 TIME, ISN'T IT?
22 A. THAT'S CORRECT.
23 Q. WERE YOU PRESENT AT THE TIME
24 THAT YOUR DAD QUIT SMOKING CIGARETTES?
25 A. I WAS.
26 Q. WERE YOU LITERALLY PRESENT IN
27 HIS IMMEDIATE PRESENCE WHEN HE QUIT
28 SMOKING CIGARETTES?
7812
1 A. I WAS.
2 Q. DO YOU RECALL THE
3 CIRCUMSTANCES THAT LED TO HIM QUITTING
4 SMOKING CIGARETTES?
5 A. I DO.
6 Q. COULD YOU TELL US, PLEASE.
7 A. WE WERE RIDING TO WORK IN HIS
8 CAR, WHICH WASN'T NORMAL. MY CAR MUST
9 HAVE BEEN GETTING IN -- HAVING SERVICE
10 DONE. AND WE WERE DRIVING ALONG ON A
11 FREEWAY IN MIAMI, FLORIDA, HAVING A
12 CONVERSATION.
13 AND IN THE MIDDLE OF THE
14 CONVERSATION, MY FATHER REACHED IN HIS
15 SHIRT POCKET, TOOK THE PACKAGE OF
16 CIGARETTES THAT WAS IN HIS SHIRT
17 POCKET, CRUSHED THEM AND THREW THEM
18 OUT THE WINDOW. AND THEN THREW THE
19 CIGARETTE THAT WAS LIT IN THE ASHTRAY
20 OUT THE WINDOW AND THREW THE CIGARETTE
21 THAT WAS IN HIS MOUTH OUT THE WINDOW,
22 AND HE SAID, THAT'S IT.
23 I WAS SURPRISED. I SAID, WHAT
24 DO YOU MEAN, THAT'S IT?
25 HE SAID, I PROMISED MYSELF IF
26 I EVER FOUND MYSELF HAVING A CIGARETTE
27 LIT, BURNING, AND GOING TO LIGHT
28 ANOTHER ONE, I WOULD QUIT SMOKING, AND
7813
1 HE QUIT.
2 Q. SO HE HAD TWO GOING AT THE
3 SAME TIME?
4 A. CORRECT.
5 Q. DID YOU EVER SEE HIM SMOKING A
6 CIGARETTE AGAIN?
7 A. HE NEVER SMOKED ANOTHER
8 CIGARETTE.
9 Q. SO WHEN YOU WERE SOMEPLACE IN
10 THE VICINITY OF 23 YEARS OLD, ROUGHLY,
11 AROUND 1962, ROUGHLY, THAT WAS THE
12 FIRST TIME IN YOUR LIFE WHEN YOU
13 REMEMBER THAT YOUR DAD WASN'T A
14 SMOKER?

15 A. THAT'S CORRECT.
16 Q. WHEN YOU SAW HIM CRUSH UP THE
17 CIGARETTES, MAKE A STATEMENT, THROW
18 THE PACK OUT THE WINDOW, THROW THE LIT
19 CIGARETTE FROM THE ASHTRAY OUT THE
20 WINDOW, THROW THE CIGARETTE FROM HIS
21 MOUTH OUT THE WINDOW, DID IT OCCUR TO
22 YOU TO SAY, YOU KNOW WHAT, I SHOULD DO
23 THE SAME THING THAT HE'S DOING?
24 A. NO.
25 Q. NEVER GAVE IT A THOUGHT?
26 A. NO.
27 Q. WHEN YOU WERE ABOUT TO TURN
28 23, IN MIAMI, I GUESS, DID YOU THINK
7814
1 THERE WAS ANYTHING WRONG WITH SMOKING?
2 A. NO.
3 Q. ASIDE FROM WHAT YOU MENTIONED
4 ABOUT COACHES BACK IN HIGH SCHOOL
5 SAYING IT WOULD AFFECT YOUR WIND, HAD
6 ANYONE ELSE TOLD YOU THERE'S SOMETHING
7 WRONG WITH SMOKING?
8 A. NO.
9 Q. SO THE QUESTION WAS: PLEASE
10 GIVE US YOUR OBSERVATIONS OF WHAT
11 PERCENTAGE OF MEN SMOKED DOWN IN MIAMI
12 WHEN YOU WERE ABOUT TO TURN 23?
13 A. THE GREAT MAJORITY OF THE MEN
14 SMOKED, CERTAINLY, SOMETHING FAR IN
15 EXCESS OF 50 PERCENT.
16 Q. AND YOUR OBSERVATIONS ABOUT
17 THE PERCENTAGE OF THE ADULT WOMEN THAT
18 SMOKED, DO YOU KNOW, IN MIAMI WHEN
19 YOU WERE ABOUT TO TURN 23?
20 A. MY OBSERVATION WAD THE SAME AS
21 IT WAS IN MINNEAPOLIS. THE GREAT
22 MAJORITY OF THE WOMEN DIDN'T SMOKE.
23 CERTAINLY WELL UNDERNEATH 50 PERCENT.
24 Q. WHEN DID YOU LEAVE MIAMI?
25 A. THE FIRST TIME I LEFT MIAMI
26 WAS IN 1965.
27 Q. WHERE DID YOU GO?
28 A. EXCUSE ME. I JUST ANSWERED
7815
1 YOU INCORRECTLY.
2 THE FIRST TIME THAT I LEFT
3 MIAMI WAS IN 1968. AND I LEFT TO GO
4 TO LOS ANGELES, CALIFORNIA.
5 Q. SO WAS 1965 THE FIRST TIME YOU
6 WANTED TO LEAVE MIAMI?
7 A. NO. BUT IT WAS THE FIRST TIME
8 A GOOD OPPORTUNITY PRESENTED ITSELF.
9 Q. WHAT HAPPENED IN 1965?
10 A. A FIRM IN LOS ANGELES WAS
11 LOOKING FOR SOMEONE THAT HAD MY
12 EXPERIENCE. I APPLIED FOR THE JOB AND
13 THEY HIRED ME.
14 Q. THAT WAS '65?
15 A. THAT'S CORRECT. YEAH. THANK
16 YOU. EXACTLY.
17 Q. THAT'S A QUESTION.
18 A. THAT WAS '65.
19 Q. AND IT'S A LITTLE CHOPPY IN

20 HERE. BUT DOES THAT MEAN YOU DID MOVE
21 TO LOS ANGELES IN '65?
22 A. RIGHT. IT DOES MEAN THAT I
23 DID MOVE TO LOS ANGELES IN 1965.
24 Q. AT THAT TIME, DID YOU MOVE TO
25 LOS ANGELES ALONE?
26 A. NO, I DID NOT. I WAS MARRIED.
27 Q. WHEN DID YOU GET MARRIED?
28 A. 1961.

7816
1 Q. IN 1961, DID YOU GO AND START
2 YOUR OWN HOUSEHOLD?
3 A. YES, I DID.
4 Q. BY THE TIME YOU MOVED TO
5 LOS ANGELES IN '65, DID YOU HAVE A
6 FAMILY BESIDES YOUR WIFE?
7 A. I DID. I HAD A DAUGHTER.
8 Q. WHEN WAS SHE BORN, PLEASE?
9 A. 1961.
10 Q. DURING THE THREE OR FOUR
11 YEARS, WHENEVER IT IS THAT YOU WERE
12 LIVING IN MIAMI AND MARRIED, DID YOUR
13 WIFE SMOKE?
14 A. I'M SORRY. I DIDN'T HEAR THE
15 LAST PART OF THE QUESTION.
16 Q. DID YOUR WIFE SMOKE?
17 A. SPORADICALLY.
18 Q. WHAT DOES THAT MEAN,
19 SPORADICALLY?
20 A. A CIGARETTE EVERY TWO OR THREE
21 DAYS.
22 Q. WHEN YOU CAME TO LOS ANGELES
23 IN 1965, WERE YOU STILL SMOKING
24 PALL MALLS?
25 A. NO, I WAS NOT.
26 Q. WHAT WERE YOU SMOKING?
27 A. MARLBORO.
28 Q. WHEN DID YOU SWITCH TO

7817
1 MARLBORO?
2 A. WHILE I WAS STILL UNTIL MIAMI.
3 Q. WHY DID YOU SWITCH TO
4 MARLBORO?
5 A. AFTER THE FIRST SURGEON
6 GENERAL REPORT, I GAVE SOME THOUGHT
7 AND WAS CONCERNED ABOUT TARS AND
8 CONCERNED ABOUT NICOTINE, AND I
9 THOUGHT IT WOULD BE SMART TO FILTER
10 THE CIGARETTE AND PURCHASED THE
11 FILTERED CIGARETTE.
12 Q. AND OFFHAND, DO YOU KNOW THE
13 YEAR OF THAT FIRST SURGEON GENERAL'S
14 REPORT?
15 A. MY MEMORY IS EITHER '64, '63
16 OR '62, BUT I'M NOT EXACTLY CERTAIN.
17 Q. WHAT WAS IT THAT YOU HEARD
18 THAT GAVE YOU SOME CONCERN ABOUT THE
19 TAR?
20 A. I DON'T REMEMBER WHAT CAUSED
21 THE CONCERN SPECIFICALLY ABOUT TAR. I
22 JUST REMEMBER HEARING SOMETHING ABOUT
23 TAR AND THOUGHT IT WOULD BE GOOD TO
24 FILTER THAT OUT, IF POSSIBLE.

25 Q. DO YOU KNOW WHAT TAR IS?
26 VOICE: I'M SORRY. DID YOU
27 SAY "DO YOU" OR "DID YOU"? I JUST
28 MISSED THE --
7818
1 Q. I SAID "DO YOU."
2 BUT YOU KNOW WHAT?
3 DID YOU -- DID YOU KNOW WHAT
4 TAR WAS?
5 A. I THOUGHT I KNEW.
6 Q. WHAT DID YOU THINK?
7 A. I THINK IT WAS A RESIDUE, LIKE
8 ANY OTHER TAR THAT YOU -- LIKE
9 ASPHALT, SOMETHING THAT WOULD BE THICK
10 AND GOOEY AND SOMETHING THAT WOULD BE
11 TRANSMITTED INTO MY SYSTEM.
12 Q. DID YOU KNOW WHAT NICOTINE
13 WAS?
14 A. NOT REALLY. JUST A COMPONENT
15 OF TOBACCO. BEYOND THAT, NOTHING.
16 Q. DID YOU GET THE IDEA BACK THEN
17 THAT NICOTINE WAS BAD FOR YOU?
18 A. NO, I DID NOT.
19 Q. DID YOU GET THE IDEA BACK THEN
20 THAT TAR WAS BAD FOR YOU?
21 A. YES, I DID.
22 Q. IF TAR -- THE IDEA WAS TAR WAS
23 BAD FOR YOU, RATHER THAN USING
24 FILTERED CIGARETTES, DID YOU CONSIDER
25 USING NO CIGARETTES?
26 A. NO, I DID NOT.
27 Q. WHY NOT?
28 A. I SMOKED. I ENJOYED SMOKING.
7819
1 I SMOKED.
2 Q. DID YOU BELIEVE THAT THE
3 CIGARETTES WERE BAD FOR YOU AND WOULD
4 HURT YOU?
5 A. NO, I DID NOT.
6 Q. WHY NOT?
7 A. NO ONE WAS TELLING ME THAT
8 THEY WERE BAD FOR ME, THAT THEY WERE
9 GOING TO HURT ME. THE WARNING WAS
10 VERY, VERY VAGUE. IT MAY -- TO ME,
11 MAY AND WILL ARE TWO DIFFERENT THINGS
12 ENTIRELY. I HAD NO BELIEF THAT THEY
13 WOULD HURT ME.
14 Q. WELL, I HAVEN'T EVEN GOTTEN TO
15 THE WARNING YET, HAVEN'T EVEN BEEN
16 TALKING ABOUT WARNING YET, AND I DON'T
17 WANT TO TALK ABOUT WARNING YET.
18 WHEN YOU SWITCHED TO MARLBORO,
19 IF YOU DIDN'T THINK THE CIGARETTES
20 WOULD HURT YOU, WHY DID YOU WANT TO BE
21 SWITCHING?
22 A. I JUST HAD HEARD ENOUGH
23 CONVERSATION ABOUT THERE BEING TAR IN
24 CIGARETTES TO THINK THAT IT WOULD BE
25 GOOD TO FILTER THOSE TARS OUT OF THE
26 CIGARETTE THAT I WAS DRAWING INTO MY
27 BODY.
28 Q. OKAY. GOOD ENOUGH.
7820

1 SO AT THE TIME YOU SWITCHED
2 FROM PALL MALL TO MARLBORO, HOW MUCH
3 WERE YOU SMOKING THEN?
4 A. MORE THAN A PACKAGE A DAY.
5 Q. AND THAT SORT OF LEAVES A
6 LITTLE -- YOU KNOW, MORE THAN A
7 PACKAGE A DAY COULD CONCEIVABLY BE A
8 CARTON. I'M BEING FACETIOUS. I'M
9 SURE IT WASN'T THAT.
10 BUT HOW MUCH MORE THAN A
11 PACKAGE?
12 A. A PACKAGE AND A QUARTER, A
13 PACKAGE AND A HALF. NOT QUITE TWO.
14 Q. REMEMBER BEFORE, I WAS ASKING
15 ABOUT THE TASTE OF PALL MALLS?
16 A. I'M SORRY. I DIDN'T HEAR YOU,
17 MIKE.
18 Q. REMEMBER BEFORE, I WAS ASKING
19 YOU QUESTIONS ABOUT THE TASTE OF
20 PALL MALLS?
21 A. YES.
22 Q. PALL MALLS. EXCUSE ME.
23 PALL MALLS.
24 WHAT ABOUT MARLBOROS?
25 CAN YOU TELL THE PEOPLE ON THE
26 JURY WHO HAVE NEVER SMOKED, OR THE
27 ONES WHO HAVE, ABOUT THOSE BRANDS.
28 WHAT WAS THE DIFFERENCE
7821
1 BETWEEN THEM?
2 A. THEY TASTED DRIER. THE MOST
3 DISTINCTIVE DIFFERENCE WAS THAT THEY
4 JUST TASTED LIKE A DRIER CIGARETTE.
5 THERE WAS LESS MOISTURE IN IT. THERE
6 WAS LESS -- THEY WERE DRIER.
7 Q. DID YOU LIKE THEM AS MUCH?
8 A. INITIALLY, NO.
9 Q. FOR THE REASON YOU JUST
10 STATED, YES?
11 A. YES.
12 Q. BECAUSE OF YOUR ANSWER, ARE WE
13 TO ASSUME THAT CHANGED, AND AFTER A
14 WHILE, YOU LIKED THEM AS MUCH?
15 A. YES.
16 Q. HOW DID THAT WORK?
17 A. I JUST BECAME ACCUSTOMED TO
18 THEM AND FORGOT, QUITE HONESTLY, WHAT
19 THE OTHER CIGARETTE TASTED LIKE AND
20 BECAME USED TO THE TASTE OF MARLBORO.
21 Q. MARLBORO RED?
22 A. YES.
23 Q. BACK WHEN YOU SWITCHED, WAS IT
24 ALL ONE KIND OF MARLBORO?
25 A. I DON'T REMEMBER.
26 Q. SO I'VE GOT YOU SOMEPLACE
27 BETWEEN LOS ANGELES AND MIAMI OR
28 BETWEEN MIAMI AND LOS ANGELES, AND I'M
7822
1 GOING TO KEEP YOU IN SUSPENDED
2 ANIMATION AND I'M GOING TO CHANGE THE
3 SUBJECTS.
4 I'D LIKE TO SHOW YOU NOW SOME
5 ADVERTISEMENTS. I'VE GOT A WHOLE

6 STACK OF THEM. I'M NOT GOING TO SHOW
7 YOU ALL OF THEM RIGHT NOW, BUT I'M
8 GOING TO START YOU OFF AND ASK YOU TO,
9 NUMBER ONE, TAKE A LOOK AT IT.

10 NUMBER TWO, HOLD IT UP SO THE
11 VIDEOGRAPHER CAN SEE IT AND ZOOM IN ON
12 IT.

13 SOMEPLACE ALONG THE LINE, I'M
14 GOING TO ASK YOU TO MARK THESE THINGS
15 ON THE BACK SO WE'LL HAVE AN EVIDENCE
16 NUMBER, AND I'LL ASK YOU SOME
17 QUESTIONS ABOUT THEM.

18 READY TO DO THAT?

19 A. UH-HUH.

20 Q. OKAY. I'M GOING TO GIVE YOU
21 MY PEN SO --

22 DO YOU HAVE A PEN?

23 A. NO.

24 Q. YOU CAN HAVE MINE. AND WE'RE
25 GOING TO START YOU OFF WITH THOSE.

26 WILL YOU JUST TAKE THE TOP
27 ONE, PLEASE. TAKE A LOOK AT IT.

28 HAVE YOU SEEN THAT BEFORE?

7823

1 A. I HAVE.

2 Q. DID I SHOW YOU HERE IN MY
3 OFFICE LOTS AND LOTS OF CIGARETTE ADS
4 FROM WHICH YOU PICKED ONES THAT
5 YOU RECALL?

6 A. YOU DID.

7 Q. AND IS THIS ONE OF THE ONES
8 THAT YOU RECALL?

9 A. IT IS.

10 Q. CAN YOU TELL US THE YEAR OF
11 THAT AD?

12 A. 1953.

13 Q. WHAT IS THERE THAT YOU RECALL
14 ABOUT THAT AD?

15 A. IT WAS A PACKAGE OF THE
16 CIGARETTES, THE COLOR OF IT, THE WOMAN
17 IN THE AD.

18 Q. DO YOU RECALL THAT LADY AFTER
19 50 YEARS?

20 A. YES, I DO.

21 Q. OKAY.

22 LET'S TAKE ANOTHER LOOK AT THE
23 COLOR, THE AD AND THE LADY, PLEASE.

24 NOW, IN THAT AD ANYPLACE, IS
25 THERE ANYTHING AT ALL -- ANYTHING
26 WRITTEN IN THAT AD THAT SAYS SOMETHING
27 NEGATIVE ABOUT CIGARETTES?

28 A. NOT THAT I CAN SEE, NO.

7824

1 Q. ANYTHING THERE THAT IS A
2 WARNING, A CAUTION, OR ANYTHING?

3 A. NO.

4 Q. WAS '53 RIGHT AROUND THE TIME
5 THAT YOU WERE THINKING ABOUT SMOKING
6 OR BEFORE YOU EVEN THOUGHT ABOUT
7 SMOKING?

8 A. ABOUT THE TIME I WAS THINKING
9 ABOUT IT.

10 Q. WHY DON'T YOU PUT A NUMBER ON

11 THE BACK OF THAT. LET'S START WITH 1.
12 I'LL ASK YOU TO PICK UP THE
13 NEXT ONE. TAKE A LOOK. TELL US THE
14 YEAR.

15 A. 1956.

16 Q. IS THAT ANOTHER PALL MALL AD?

17 A. IT IS.

18 Q. WHAT IS THERE ABOUT THAT AD
19 THAT YOU RECALL?

20 A. THE COLOR OF THE CIGARETTE
21 PACKAGE. THE TOBACCO LEAF ITSELF WAS
22 SOMETHING THAT I REMEMBER PALL MALL
23 DOING, SHOWING A LEAF OF TOBACCO. AND
24 THE COLOR RED I REMEMBER VERY WELL.

25 Q. WERE YOU SMOKING THOSE
26 CIGARETTES BECAUSE THEY WERE RED?

27 A. NO. I JUST REMEMBER THE COLOR
28 RED.

7825

1 Q. CAN WE TAKE A LOOK AT THAT,
2 PLEASE.

3 DOES IT SAY, "MILDNESS IS A
4 PLEASURE WITH PALL MALL"?

5 A. IT DOES.

6 Q. WHEN YOU STARTED SMOKING
7 PALL MALLS, DID YOU THINK THEY WERE
8 MILD?

9 A. NO, I DID NOT.

10 Q. AFTER YOU SMOKED THEM FOR A
11 WHILE, DID YOU THINK THEY WERE MILD?

12 A. YES, I DID.

13 Q. DO YOU WANT TO PUT A 2 ON THE
14 BACK OF THAT, PLEASE.

15 WAS THERE ANY
16 NEGATIVE -- ANYTHING NEGATIVE THERE
17 ABOUT CIGARETTES, TOBACCO?

18 A. NO.

19 Q. ANY KIND OF WARNINGS OR
20 CAUTIONS OR ANYTHING ALONG THOSE
21 LINES?

22 A. NO.

23 Q. TAKE A LOOK AT THE NEXT
24 PICTURE, PLEASE.

25 DO YOU RECOGNIZE THAT?

26 A. I DO.

27 Q. WHAT YEAR IS THAT, PLEASE?

28 A. 1956.

7826

1 Q. IS THAT ANOTHER AD FOR
2 PALL MALL?

3 A. IT IS.

4 Q. COULD YOU SHOW IT TO US,
5 PLEASE.

6 WHAT IS IT ABOUT THAT
7 PARTICULAR AD THAT YOU CAN RECALL
8 AFTER ALL THESE YEARS, MR. RELLER?

9 A. AGAIN, THE COLOR OF THE
10 CIGARETTE PACKAGE, THE ATTRACTIVE
11 WOMAN IN THE CIGARETTE ADVERTISEMENT
12 ITSELF, AND THE, AGAIN, THE TOBACCO
13 LEAVES PART OF THE AD.

14 Q. TAKING A LOOK AT THAT
15 PALL MALL AD, DO YOU SEE ANY KIND OF

16 NEGATIVE INFORMATION THAT IS GIVEN IN
17 THAT AD?
18 A. NONE. THERE'S NONE. NO
19 NEGATIVE INFORMATION.
20 Q. THANKS.
21 SO IF YOU'D MARK THAT NEXT ONE
22 IN ORDER, PLEASE.
23 SO ARE WE UP TO NO. 3?
24 A. WE JUST DID 3.
25 Q. DO YOU KNOW HOW BIG THE STACK
26 IS?
27 TAKE A LOOK AT THE NEXT ONE,
28 PLEASE.
7827
1 DO YOU HAVE IT?
2 A. I DO.
3 Q. AN AD FOR WHAT, PLEASE?
4 A. PALL MALL CIGARETTES.
5 Q. THE YEAR, PLEASE?
6 A. 1956.
7 Q. DO YOU RECALL THAT ONE?
8 A. I DO.
9 Q. WHAT IS IT THAT YOU RECALL ON
10 THAT ONE?
11 A. THE COLOR OF THE CIGARETTE
12 PACKAGE ITSELF, THE RED, THE
13 DISTINCTIVE RED, THE TOBACCO LEAF AND
14 THE ATTRACTIVE GIRL IN WHAT APPEARS TO
15 BE A SWIMMING SUIT.
16 IT OCCURRED TO ME, DEFINITELY.
17 Q. IS THERE ANY NEGATIVE
18 INFORMATION IMPARTED IN THAT
19 ADVERTISEMENT?
20 A. NO, THERE'S NOT.
21 Q. COULD YOU PUT THE NEXT NUMBER
22 THERE, WHICH, I GUESS, IS 4.
23 WHAT HAVE YOU GOT NOW?
24 A. PALL MALL AD FROM 1957.
25 Q. IS IT THE SAME FEATURES OF
26 THAT AD THAT YOU RECALL THAT YOU
27 DISCUSSED WITH THE OTHER ADS?
28 A. IT IS.
7828
1 Q. IS ONE OF THOSE FEATURES THE
2 COLOR OF THE PACK?
3 A. IT IS.
4 Q. IS ANOTHER ONE OF THOSE
5 FEATURES THE TOBACCO LEAF?
6 A. IT IS.
7 Q. IS ANOTHER ONE OF THOSE
8 FEATURES THE ATTRACTIVE WOMAN?
9 A. IT IS.
10 Q. WAS THERE ANY KIND OF NEGATIVE
11 INFORMATION THERE?
12 A. NONE. NO NEGATIVE
13 INFORMATION.
14 Q. WHAT DOES THE CAPTION IN BOLD
15 SAY?
16 A. WELL, ACTUALLY, IT'S TWO
17 CAPTIONS.
18 "DON'T MISS THE FUN OF
19 SMOKING" AND "MILDNESS IS A PLEASURE
20 WITH YOUR PALL MALL."

21 Q. DID YOU HAVE FUN SMOKING?
 22 A. SOMETIMES, YES.
 23 Q. WAS PALL MALL A PLEASURE?
 24 A. YES, IT WAS.
 25 Q. THANKS.
 26 COULD YOU PUT A NUMBER ON THAT
 27 ONE.
 28 WHAT YEAR IS THAT AD, PLEASE?
 7829
 1 A. 1957.
 2 Q. WHAT BRAND, PLEASE?
 3 A. PALL MALL.
 4 Q. LET ME SEE IT.
 5 TELL US WHAT IT IS THAT YOU
 6 RECALL ABOUT THAT AD, PLEASE.
 7 A. ACTUALLY, THE SAME AS ALL THE
 8 OTHER ADS. IT'S THE RED PACKAGE OF
 9 THE CIGARETTE. THE TOBACCO LEAF, AND
 10 AN ATTRACTIVE WOMAN WITH A MAN
 11 SMOKING.
 12 Q. ANY NEGATIVE INFORMATION THERE
 13 FOR YOU?
 14 A. NONE.
 15 Q. WOULD YOU MARK THAT AS
 16 NUMBER --
 17 WHAT NUMBER?
 18 A. 6.
 19 Q. WHAT KIND OF AD IS THAT?
 20 A. IT'S AN AD FOR MARLBORO.
 21 Q. THE YEAR?
 22 A. IT DON'T SAY.
 23 Q. DO YOU RECALL THAT ONE?
 24 A. I DO.
 25 Q. WHAT IS IT THAT YOU RECALL
 26 ABOUT THAT ONE, PLEASE?
 27 A. THE COWBOY OR THE
 28 WESTERN-LOOKING GENTLEMAN LIGHTING A
 7830
 1 CIGARETTE FOR AN ATTRACTIVE WOMAN, AND
 2 THE TWO PACKAGES OF CIGARETTES, ONE
 3 THE FLIP-TOP BOX, AND ONE THE SOFT
 4 PACK.
 5 Q. BOTH RED?
 6 A. THIS ONE HAS NO COLOR. IT'S
 7 IN BLACK AND WHITE.
 8 Q. ANY NEGATIVE INFORMATION?
 9 A. NO.
 10 Q. CAUTIONS, WARNINGS, ANYTHING
 11 LIKE THAT?
 12 A. NO.
 13 Q. THANK YOU.
 14 MARK THAT AND WE'LL GO ON TO
 15 THE NEXT ONE.
 16 A. I DO NOT REMEMBER MARKING THIS
 17 ONE.
 18 Q. WAS IT PAPER CLIPPED?
 19 A. YES, IT WAS.
 20 Q. IT'S PART OF A TWO-PAGE AD,
 21 THEN.
 22 DO YOU REMEMBER THE NEXT ONE?
 23 A. YES, I DO.
 24 Q. OKAY. LET'S DEAL WITH THE
 25 PART THAT YOU RECALL. WHY DON'T YOU

26 HOLD IT UP SO WE CAN SEE IT.
27 PALL MALL?
28 A. PALL MALL.
7831
1 Q. THE YEAR?
2 A. 1959.
3 Q. DO YOU HAVE THE SAME COMMENTS
4 ABOUT THIS PARTICULAR ADVERTISEMENT
5 THAT YOU HAD ABOUT ALL THE OTHERS?
6 A. YES.
7 Q. I'M LOOKING AT THE BACK OF IT,
8 BUT I DON'T REMEMBER SEEING A WOMAN.
9 A. THERE'S NOT.
10 Q. OKAY. ANY NEGATIVE
11 INFORMATION THERE?
12 A. NONE.
13 Q. THANK YOU.
14 WOULD YOU MARK THAT AS NUMBER
15 WHAT?
16 A. 8.
17 Q. AND THIS NEXT ONE IS CLIPPED?
18 A. IT IS.
19 Q. OKAY.
20 THE YEAR?
21 A. 1959.
22 Q. THE REASON THAT YOU RECALL
23 THAT PARTICULAR AD, MR. RELLER?
24 A. UM, THE SAME BASIC REASONS.
25 UM, COLOR OF THE CIGARETTE PACKAGE,
26 THE FACT THAT THERE'S THE DISPLAYED
27 TOBACCO LEAF.
28 IT HAPPENS, INTERESTINGLY,
7832
1 THAT I REMEMBER LOOKING AT THIS AD AND
2 WONDERING AT THE TIME WHY THE HECK
3 THEY HAD GRAPEFRUIT OR SOMETHING IN
4 THERE. IT DIDN'T MAKE ANY SENSE, BUT
5 IT GOT MY ATTENTION.
6 Q. I GUESS GRAPEFRUIT IN
7 MINNEAPOLIS WASN'T THAT COMMON?
8 A. NO, IT WASN'T.
9 Q. OKAY. MARK THAT, PLEASE.
10 SHOW US THE NEXT ONE.
11 YEAR?
12 A. 1961.
13 Q. BRAND?
14 A. PALL MALL.
15 Q. ANY NEGATIVE MESSAGES IN THERE
16 AT ALL THAT YOU SEE?
17 A. NO.
18 Q. OKAY. I'M GOING TO GIVE YOU
19 JUST ANOTHER SMALL --
20
21 THE COURT: WE'RE GOING TO STOP HERE AND TAKE OUR
22 BREAK, PLEASE.
23 YOU ARE ADMONISHED THAT IT IS YOUR DUTY NOT TO
24 CONVERSE AMONG YOURSELVES OR WITH ANYONE ELSE ON ANY SUBJECT
25 CONNECTED WITH THIS TRIAL OR TO FORM OR EXPRESS ANY OPINION
26 THEREON UNTIL THE CAUSE IS FINALLY SUBMITTED TO YOU.
27 IT'S 10 O'CLOCK. I'LL SEE YOU BACK HERE
28 PROMPTLY AT 10:15.
7833
1 (RECESS.)

2
3 THE COURT: SORRY. I GOT A CALL FROM A JUDGE WHO
4 NEEDED HELP.
5 MR. PIUZE: YOUR HONOR, I KNOW THE COMMERCIALS ARE
6 BORING, BUT I DIDN'T MEAN TO DRIVE YOU AWAY TOTALLY.
7 THE COURT: I'M NOT SAYING A WORD.
8 ALL RIGHT, RELLER VERSUS PHILIP MORRIS,
9 BC 261796.

10 ALL JURORS FOUR ALTERNATES ARE PRESENT.
11 ALL COUNSEL PREVIOUSLY STATED ARE PRESENT.
12 DR. LEWIS IS PRESENT.
13 YOUR CLOCK IS TICKING. LET'S GO.

14
15 (FREDERIC RELLER VIDEOTAPE DEPOSITION
16 CONTINUED BEING PLAYED BY THE PLAINTIFF
17 AND REPORTED AS FOLLOWS:)

18
19 Q. THEN WE'LL SWITCH SUBJECTS TO
20 SOMETHING DIFFERENT FOR A WHILE.
21 DO YOU RECOGNIZE THAT COPY,
22 MR. RELLER?

23 A. I DO.

24 Q. WHY?

25 A. I GOT A PACKAGE, A CARTON OF
26 PALL MALLS FOR CHRISTMAS. IT WAS
27 WRAPPED JUST THIS WAY.

28 Q. OKAY.

7834

1 A. THE SAME DISTINCTIVE COLOR.

2 Q. WHAT YEAR IS THAT NOW?

3 A. 1962.

4 Q. ANY KIND OF NEGATIVE MESSAGE
5 IN THERE FOR YOU?

6 A. NONE.

7 Q. ANYTHING THAT MADE YOU THINK
8 MAYBE I DON'T WANT TO SMOKE THIS
9 PALL MALL AFTER ALL?

10 A. NOTHING.

11 Q. WOULD YOU MARK THAT, PLEASE.
12 THAT DOESN'T LOOK LIKE AN AD
13 FOR PALL MALL?

14 A. IT'S NOT.

15 Q. IS THERE A YEAR ON IT?

16 A. THERE IS NOT.

17 Q. DO YOU RECALL THAT AD?

18 A. I DO.

19 Q. WHY?

20 A. I REALLY DON'T KNOW WHY MY
21 MEMORY REMEMBERS THIS AD. IT JUST
22 DOES.

23 Q. OKAY. WHAT'S THE CAPTION?
24 CAN YOU TURN THAT AROUND SO WE CAN
25 LOOK AT IT, PLEASE.

26 THE CAPTION THERE IS "MARLBORO
27 COUNTRY."

28 DO YOU SEE THAT?

7835

1 A. YES.

2 Q. ARE YOU FAMILIAR WITH THAT
3 PHRASE?

4 A. YES, I AM.

5 Q. DO YOU RECALL THAT FROM WAY
6 BACK WHEN?

7 A. I DO.
8 Q. AND NOT SO WAY BACK WHEN?
9 A. I'M SORRY?
10 Q. AND EVEN MORE RECENTLY THAN
11 WAY BACK WHEN?
12 A. YES.
13 Q. ANY KIND OF NEGATIVE
14 INFORMATION IN THAT AD, PLEASE?
15 A. NO.
16 Q. WHY DON'T YOU MARK THAT, AND
17 WE'LL TAKE A LOOK AT THE NEXT ONE.
18 WHAT NUMBER'S THAT?
19 A. THIS IS 12.
20 Q. BACK TO PALL MALL?
21 A. BACK TO PALL MALL.
22 Q. NO MORE GRAPEFRUIT IN THAT
23 PICTURE?
24 A. NO.
25 Q. WHY DON'T YOU MARK THAT ONE,
26 PLEASE.
27 SHOW YOU THE NEXT. SHOW THE
28 NEXT ONE.

7836

1 WHY DO YOU RECALL THIS
2 PARTICULAR AD?
3 A. WE WERE LIVING IN FLORIDA AT
4 THAT TIME, AND THERE WAS PALM TREES.
5 I THOUGHT IT WAS INTERESTING THAT THE
6 COWBOY HAD GONE TO FLORIDA. I
7 REMEMBER AT THE TIME READING IT OR
8 LOOKING AT IT. I REMEMBER THE AD.
9 Q. WHEN YOU LIVED DOWN IN
10 FLORIDA, DID MOST OF THE PEOPLE NEAR
11 THE BEACH GET DRESSED UP LIKE THAT?
12 A. NO. THEY WERE NOT WEARING
13 WESTERN CLOTHING.
14 Q. IS THERE ANYTHING IN THAT
15 PRINT THERE FOR --
16 CAN THE VIDEOGRAPHER SEE IF HE
17 CAN MAKE IT JUST A LITTLE SHARPER,
18 PLEASE.
19 IS THERE ANYTHING THERE IN
20 THAT PRINT THAT WE STILL CAN'T QUITE
21 READ, AT LEAST I CAN'T WITH MY EYES.
22 VOICE: THAT'S AS SHARP AS
23 IT'S GOING TO BE.
24 THANKS?
25 Q. -- THAT YOU THOUGHT WAS SOME
26 SORT OF A NEGATIVE MESSAGE OR DON'T
27 USE THIS OR YOU REALLY DON'T WANT ME?
28 A. THERE'S NO NEGATIVE MESSAGE.

7837

1 Q. OKAY. THANKS.
2 WOULD YOU MARK THAT WITH A
3 NUMBER.
4 AND SHOW US THE NEXT ONE.
5 THE YEAR?
6 A. 1964.
7 Q. THIS WAS RIGHT AROUND THE TIME
8 THAT YOU SWITCHED?
9 A. THAT I CHANGED BRANDS?
10 Q. YES.
11 A. YES.

12 Q. TAKE A LOOK AT THAT PARTICULAR
13 AD, WOULD YOU.
14 IS THERE ANY KIND -- CAN YOU
15 SEE ANY KIND OF A CAUTION OR A WARNING
16 OR ANYTHING LIKE THAT IN THAT 1964 AD
17 THERE?
18 A. NO, THERE'S NO CAUTION OR
19 WARNING.
20 Q. ALL RIGHT. THANKS.
21 DO YOU WANT TO MARK THAT ONE.
22 AND SHOW US THE NEXT ONE,
23 PLEASE.
24 WHAT DOES IT SAY UP THERE,
25 WRAPPED AROUND THAT CIGARETTE, THAT
26 PALL MALL CIGARETTE?
27 WHAT ARE THOSE WORDS?
28 A. "OVER, UNDER, AROUND AND
7838
1 THROUGH, PALL MALL TRAVELS PLEASURE TO
2 YOU."
3 Q. OKAY. ALL RIGHT.
4 AND BECAUSE THAT WAS SO CATCHY, THAT'S
5 WHY YOU RECALL THAT PARTICULAR AD?
6 A. NO. SPECIFICALLY, I REMEMBER
7 IT BECAUSE IT'S, AGAIN, THAT BLOCK RED
8 PALL MALL PACKAGE. IN THIS PARTICULAR
9 CASE, THEY'RE SHOWING A CIGARETTE WITH
10 TOBACCO IN IT. THAT'S THE SPECIFIC
11 PART THAT I REMEMBER.
12 Q. THANKS.
13 PLEASE MARK THAT AND TELL US
14 THE NUMBER YOU'RE MARKING IT, AND,
15 HOPEFULLY, WE'RE GOING TO BE DONE WITH
16 THIS PART IN JUST A LITTLE BIT.
17 WHAT NUMBER WAS THAT?
18 A. THAT WAS NO. 16.
19 Q. THANKS.
20 NOW, WHAT YEAR ARE YOU LOOKING
21 AT NOW?
22 A. 1964.
23 Q. COULD YOU SHARE IT WITH US,
24 PLEASE.
25 WERE YOU PARTICULAR?
26 A. I THOUGHT I WAS.
27 Q. WHY DON'T YOU SHOW US -- MARK
28 THAT AND SHOW US THE NEXT ONE.
7839
1 THE YEAR?
2 A. THIS IS 1964.
3 Q. DO YOU SEE ANY KIND OF A
4 CAUTION OR ANY KIND OF NEGATIVE
5 INFORMATION IN THAT REQUEST TO COME TO
6 MARLBORO COUNTRY?
7 A. NO, THERE'S NO NEGATIVE
8 INFORMATION.
9 Q. COULD YOU MARK THAT, PLEASE.
10 THE YEAR?
11 A. 1964.
12 Q. DO YOU RECALL THAT ADVERTISING
13 CAMPAIGN, THE "I'M PARTICULAR"?
14 A. I DO.
15 Q. DOES IT MEAN ANYTHING TO YOU?
16 A. THE APPARENT OBVIOUS, I'M

17 SPECIAL, I'M UNIQUE, I'M DISCRIMINATE.
18 Q. OKAY. WOULD YOU PUT A NUMBER
19 ON THAT, PLEASE.
20 A. THIS IS AN IDENTICAL ONE.
21 IT -- IT'S AN IDENTICAL AD.
22 Q. WHY DON'T YOU PUT IT ASIDE.
23 WE'RE GOT PLENTY OF ADS.
24 A. THIS WAS CLIPPED TOGETHER.
25 Q. WHAT IS IT?
26 ISN'T THAT JUST BASICALLY THE
27 SAME AD ALL OVER AGAIN?
28 A. IT'S THE SAME AD CLIPPED
7840
1 TOGETHER.
2 Q. WE'VE GOT -- WE'VE GOT PLENTY.
3 A. OKAY.
4 Q. WHY DON'T YOU PUT THOSE ASIDE.
5 OKAY. THE YEAR OF THAT ONE IN
6 YOUR HAND?
7 A. 1965.
8 Q. WHY DON'T YOU PUT A NUMBER ON
9 THAT ONE, PLEASE.
10 BY THE WAY, TAKE A LOOK AT
11 THAT 1965 AD THERE FOR A SECOND,
12 MR. RELLER. BECAUSE IT'S THE FIRST
13 TIME WE'VE TALKED ABOUT '65.
14 IS THERE ANY KIND OF A CAUTION
15 OR A WARNING OR ANYTHING THAT GIVES
16 YOU NEGATIVE INFORMATION ABOUT THE
17 ATMOSPHERE IN THAT AD?
18 A. THERE'S NOTHING NEGATIVE AND
19 THERE'S NO WARNING.
20 Q. THANK YOU.
21 A. THIS IS CLIPPED AGAIN
22 TOGETHER.
23 Q. WELL, I GUESS I'M INTERESTED
24 ONLY IN THE PART THAT YOU REMEMBER.
25 THE YEAR?
26 A. MAY OF '65.
27 Q. THE REASON YOU RECALL THAT
28 ONE, PLEASE?
7841
1 A. IT'S CONSISTENT WITH HOW THE
2 ADS WERE. IT'S -- IT'S HOW THEY WERE
3 PRESENTED -- HOW THEY WERE PRESENTED,
4 THE PARTICULAR BUTTON, THE RED, THE
5 RED PACKAGE. I JUST REMEMBER THE AD.
6 Q. OKAY. LET'S TAKE A LOOK AT IT
7 AGAIN, PLEASE. COULD WE?
8 A. YES.
9 Q. COULD YOU JUST FLIP IT AROUND
10 SO WE CAN --
11 A. OH, I'M SORRY.
12 Q. THAT'S ALL RIGHT.
13 ALL RIGHT. WOULD YOU MARK
14 THAT ONE, PLEASE.
15 WHAT'S THE NEXT ONE?
16 A. JUNE OF 1965.
17 Q. PALL MALL AGAIN?
18 EXCUSE ME. PALL MALL?
19 A. PALL MALL AGAIN.
20 Q. WOULD YOU MARK THAT ONE.
21 WHAT YEAR IS THAT?

22 A. AUGUST '65.
23 Q. MARK THAT, PLEASE.
24 THE YEAR?
25 A. IT'S '65, OCTOBER.
26 Q. IT'S A MARLBORO AD?
27 A. YES.
28 Q. IN OCTOBER OF '65, WERE YOU
7842
1 LIVING IN LOS ANGELES?
2 A. YES.
3 Q. IN OCTOBER OF '65, WERE YOU
4 SMOKING MARLBOROS?
5 A. YES.
6 Q. COULD YOU TELL US WHAT THAT
7 SAYS UNDER THE BOX, PLEASE.
8 A. "COME TO WHERE THE FLAVOR IS.
9 COME TO MARLBORO COUNTRY."
10 Q. COULD WE SEE THAT AGAIN.
11 WERE MARLBORO ADS DISTINCTIVE
12 FOR YOU --
13 A. YES.
14 Q. -- AT THAT TIME?
15 A. YES.
16 Q. DID MARLBORO ADS EVER STOP
17 BEING DISTINCTIVE FOR YOU?
18 A. NO.
19 Q. WHAT WAS IT ABOUT THE MARLBORO
20 ADS THAT YOU THOUGHT WAS DISTINCTIVE
21 FOR YOU?
22 A. THE WESTERN THEME, THE COWBOY,
23 IF YOU WILL, THE SELF-SUFFICIENT
24 PERSON. AND, FOR WHATEVER REASON,
25 PARTICULARLY IMPRESSED WITH THE YELLOW
26 SLICKER THAT HE WAS WEARING -- OR THAT
27 THE COWBOYS WORE. I DON'T KNOW WHY
28 THAT IMPRESSED ME, BUT IT DID. IT GOT
7843
1 MY ATTENTION.
2 Q. WHAT WAS IT ABOUT THE
3 SELF-SUFFICIENCY THAT MEANT ANYTHING
4 TO YOU, MR. RELLER?
5 A. I RESPECT SELF-SUFFICIENCY IN
6 PEOPLE AND SELF-RELIANCE AND
7 INDIVIDUALISM. SO IT CERTAINLY STRUCK
8 A CHORD IN ME. SOMETHING THAT I COULD
9 IDENTIFY WITH.
10 Q. AND FOR THOSE OF YOU WHO DON'T
11 KNOW THE TERRITORY VERY WELL, WHEN YOU
12 WERE A KID UP IN MINNEAPOLIS, WERE
13 THERE HORSES AROUND?
14 A. THERE WERE HORSES.
15 Q. DID YOU RIDE?
16 A. I DID.
17 Q. WERE THERE COWBOYS AROUND?
18 A. NOT -- NO. THERE
19 WERE -- THERE WEREN'T REALLY COWBOYS,
20 BUT THERE WERE PEOPLE WHO RODE HORSES.
21 THERE WERE FARMS. THERE WERE PEOPLE
22 WHO HAD HORSES, BOARDED HORSES AND
23 RACED HORSES AND RODE HORSES.
24 Q. AND YOU WERE ONE OF THE ONES
25 WHO RODE HORSES?
26 A. YES, I WAS.

27 Q. THANKS.
28 IF YOU WOULD PUT A NUMBER ON
7844
1 THAT AND MOVE ON TO THE NEXT ONE.
2 THE YEAR, PLEASE.
3 A. IT'S OCTOBER OF 1965.
4 Q. NOW, IF YOU HAD STOPPED
5 SMOKING PALL MALL, WHICH YOU HAVE,
6 WERE YOU STILL COGNIZANT OF THEIR ADS
7 BACK THEN?
8 A. YES.
9 Q. AND DO YOU KNOW WHY THAT IS?
10 A. I WAS USED TO LOOKING AT THEIR
11 AD. I WAS USED TO READING THEIR AD.
12 I WAS FAMILIAR WITH IT. IT GOT MY
13 ATTENTION. IT -- I WAS JUST FAMILIAR
14 WITH IT.
15 Q. ONCE YOU SWITCHED OFF OF
16 PALL MALLS AND ONTO MARLBOROS, AFTER
17 SOME TRANSITION TIME, WHATEVER IT
18 WAS -- WEEKS, MONTHS, WHATEVER IT WAS,
19 YOU WERE ACCUSTOMED TO THEM -- DID YOU
20 EVER THINK OF GOING BACK TO
21 PALL MALLS?
22 A. NO, I DID NOT.
23 Q. WHY NOT?
24 A. I HAD BECOME ACCUSTOMED TO
25 MARLBORO CIGARETTES, AND I HAD ALREADY
26 MADE MY DECISION THAT I WANTED TO
27 SMOKE A NON-FILTERED -- OR EXCUSE
28 ME -- FILTERED CIGARETTE. THE
7845
1 PALL MALLS THAT I SMOKED WERE NOT
2 FILTERED. I HAD MOVED ON. I HAD MADE
3 MY DECISION. I WAS IN THE
4 MIDDLE -- NO, I DIDN'T THINK ABOUT
5 GOING BACK.
6 Q. OKAY. THAT'S FAIR.
7 IF YOU WOULD PUT A NUMBER ON
8 THAT AND TAKE A LOOK AT THE NEXT ONE.
9 WHAT IS IT YOU RECALL ABOUT
10 THAT PARTICULAR MARLBORO AD?
11 A. WELL, THE PACKAGE ITSELF WAS
12 THE -- WAS THE SOFT PACK THAT I
13 SMOKED. I DIDN'T SMOKE THE CRUSHPROOF
14 BOX. SO THE PACKAGE ITSELF I COULD
15 IDENTIFY WITH AND RECOGNIZE AS WHAT I
16 SMOKED.
17 ALSO, I THOUGHT IT WAS
18 PARTICULARLY AESTHETICALLY ATTRACTIVE.
19 THE WESTERN MAN IN A DOORWAY WITH
20 SUNSHINE OR SOME WARM LIGHT COMING
21 FROM THE BACK OF HIM. THE AD APPEALED
22 TO ME. I LIKED THE WAY IT LOOKED.
23 Q. OKAY. THANKS.
24 IF I HAVEN'T ASKED, I WILL.
25 WHAT YEAR IS THAT?
26 A. THIS WAS 1968, JANUARY.
27 Q. AND IN 1968, JANUARY, CAN YOU
28 SEE ANY KIND OF NEGATIVE INFORMATION
7846
1 IMPARTED IN THAT AD?
2 A. THERE'S NONE AND THERE'S NO

3 WARNING, NOTHING.
4 Q. COULD YOU PUT A NUMBER ON THAT
5 AND TELL US WHAT THE NUMBER IS.
6 A. 26.
7 Q. WHAT YEAR IS THAT?
8 A. THIS IS FEBRUARY, 1968.
9 Q. OKAY. PUT A NUMBER ON THAT
10 ONE, PLEASE.
11 THE YEAR, PLEASE?
12 A. MAY OF 1968.
13 Q. COULD YOU PUT A NUMBER ON
14 THAT, PLEASE.
15 LET ME JUST END WITH THIS ONE.
16 COULD YOU TAKE A LOOK AT THAT,
17 HOLD IT UP. TELL US THE YEAR.
18 A. THIS IS AUGUST OF '68.
19 Q. WHAT IS ATTACHED, PLEASE?
20 A. "COME TO WHERE THE FLAVOR IS.
21 COME TO MARLBORO COUNTRY. MARLBORO
22 RED OR MARLBORO 100, YOU GET A LOT TO
23 LIKE."
24 Q. DID YOU GET A LOT TO LIKE?
25 A. YES.
26 Q. AND PUT A NUMBER ON THAT,
27 PLEASE. TELL US WHAT IT IS.
28 A. IT'S 29.
7847
1 COULD WE TAKE A SMALL BREAK?
2 I'D LIKE TO HAVE A GLASS OF
3 WATER.
4 Q. YES.
5 A. THANK YOU.
6 VOICE: WE'RE GOING OFF
7 RECORD.
8 Q. HOW WAS YOUR WATER?
9 A. THANK YOU, GOOD.
10 Q. OKAY. HOW DID YOU GET FROM
11 MIAMI TO L.A. WHEN YOU CAME OUT HERE
12 TO LIVE?
13 A. I FLEW.
14 Q. DID YOUR WIFE FLY?
15 A. ON ANOTHER FLIGHT. SEPARATE
16 FLIGHTS. YES.
17 Q. SO YOU DIDN'T HAVE TO DRIVE
18 ACROSS THE COUNTRY WITH SOME SORT OF
19 TRAILER BEHIND YOUR CAR --
20 A. NO.
21 Q. -- WITH ALL YOUR COUCHES AND
22 STUFF?
23 A. NO.
24 Q. WHEN YOU FLEW ACROSS THE
25 COUNTRY TO START YOUR JOB IN
26 LOS ANGELES, DID YOU SMOKE ON THE
27 AIRPLANE?
28 A. YES, I DID.
7848
1 Q. IN THAT YEAR, WHICH I BELIEVE
2 YOU SAID IS '65 --
3 A. RIGHT.
4 Q. -- WHEN YOU WERE ON AIRPLANES,
5 FLYING AND SMOKING, COULD YOU SMOKE
6 ANYPLACE YOU WANTED ON THE AIRPLANE?
7 A. YES, YOU COULD.

8 Q. DO YOU RECALL WHETHER OR NOT
9 AT SOME TIME THERE WERE SMOKING AND
10 NONSMOKING SECTIONS ON THE AIRPLANES?
11 A. I DO NOT RECALL SMOKING AND
12 NONSMOKING SECTIONS.
13 Q. OKAY. WHERE DID YOU LIVE IN
14 THE LOS ANGELES AREA, PLEASE?
15 A. [DELETED].
16 Q. WHAT KIND OF A COMPANY DID YOU
17 WORK FOR?
18 A. A COMPANY THAT WAS INVOLVED
19 WITH DEFENSE WORK.
20 Q. WHAT WAS THE NAME OF THE
21 COMPANY?
22 A. LITTON INDUSTRIES.
23 Q. IN WHAT WAY WAS THE LITTON
24 INDUSTRIES INVOLVED WITH DEFENSE WORK?
25 A. THEY OWNED A NUMBER OF
26 FACTORIES. AND THE MAJORITY OF THOSE
27 FACTORIES WERE SUPPLIERS TO DEFENSE
28 CONTRACTORS OR SUPPLIERS TO THE
7849
1 GOVERNMENT ITSELF FOR PRODUCT THAT
2 WOULD BE USED IN -- SPECIFICALLY, IN
3 THIS CASE, VIETNAM.
4 Q. IN 1965, WAS THE UNITED STATES
5 BECOMING INVOLVED IN MILITARY ACTION
6 IN VIETNAM?
7 A. VERY MUCH INVOLVED, YES.
8 Q. CAN YOU TELL US WHAT SOME OF
9 THE PRODUCTS WERE THAT LITTON MADE IN
10 WHICH YOU HAD SOME INVOLVEMENT?
11 A. NAPALM, ARLGS, AN ARLEDGE, A
12 LOGISTICS SUPPORT SYSTEM THAT WAS
13 PARACHUTED INTO THE JUNGLE. AND THE
14 SYSTEM INVOLVED A RAPID DELIVERY
15 SYSTEM FOR GASOLINE, FOR FUEL,
16 IN-FLIGHT REFUELING HOSES FOR SIKORSKY
17 HELICOPTERS AND FOR JET FIGHTERS WAS
18 SOME OF THE PRODUCT.
19 Q. WHAT'S NAPALM?
20 A. IT'S A FLAMMABLE EXPLOSIVE
21 THAT'S DROPPED, AND WHEN IT HITS THE
22 GROUND, IT IGNITES AND BURNS
23 SURROUNDING AREA.
24 Q. WHAT WAS YOUR JOB FOR LITTON?
25 A. MY RESPONSIBILITY WAS TO BE
26 INVOLVED WITH THE DIFFERENT
27 MANUFACTURERS AND ASSEMBLERS OF THOSE
28 PRODUCTS AND TO TAKE THOSE ORDERS FOR
7850
1 THOSE PRODUCTS, AND IF THOSE ORDERS
2 CONTAINED GOVERNMENT PRIORITY
3 CLEARANCE, SOME OF THE -- SOME OF THE
4 ORDERS WOULD TAKE PRECEDENCE IN THE
5 FACTORY, AND IF THAT WAS THE CASE, I'D
6 BE INVOLVED WITH TALKING WITH THE
7 FACTORIES AND MAKING CERTAIN THAT THE
8 PRODUCT WAS SCHEDULED PROPERLY SO THAT
9 IT MADE THOSE PRIORITY CLEARANCES.
10 Q. DID WORKING WITH LITTON
11 INVOLVING WAR MATERIALS DURING THE
12 1965 AND SHORTLY AFTER ERA CAUSE YOU

13 SOME STRESS?
14 A. YES.
15 Q. TELL US A LITTLE BIT ABOUT
16 THAT, PLEASE.
17 A. WELL, THE JOB ITSELF WAS
18 STRESSFUL. A LOT OF THE FACTORIES
19 WERE ON THE EAST COAST, AND WE, OF
20 COURSE, WERE ON THE WEST COAST, SO
21 THERE WAS ALWAYS A TIME ZONE
22 DIFFERENCE.
23 THEN, OF COURSE, THE
24 TELEVISION NEWS AT THAT TIME WAS
25 STARTING TO BECOME FILLED WITH VIETNAM
26 WAR SCENES. IT WASN'T UNUSUAL TO SEE
27 NAPALM BEING DROPPED IN A JUNGLE. NOR
28 WAS IT UNUSUAL TO SEE HELICOPTERS OR
7851
1 AIRCRAFT BEING REFUELED IN THE AIR.
2 I WAS SENSITIVE TO WHAT WAS
3 GOING ON THERE, AND I WAS ALSO
4 SENSITIVE TO WHAT I WAS DOING, AS FAR
5 AS THE JOB I WAS DOING, SO I HAD MIXED
6 FEELINGS A LOT OF THE TIME ABOUT MY
7 INVOLVEMENT WITH IT. SO IT WAS
8 STRESSFUL.
9 Q. WHEN YOU WERE YOUNGER, DID YOU
10 DRINK ALCOHOLIC BEVERAGES?
11 A. I DID.
12 Q. ROUGHLY, WHEN DID YOU START
13 DRINKING ALCOHOLIC BEVERAGES?
14 A. WHEN I WAS 18, 19, I STARTED.
15 Q. AND FROM THE TIME YOU WERE 18,
16 19, ALL THE WAY THROUGH UNTIL 1965
17 WHEN YOU CAME TO LOS ANGELES, WAS
18 THERE EVER A TIME WHEN YOU DID NOT
19 DRINK ALCOHOLIC BEVERAGES?
20 A. NO, THERE WAS NOT A TIME I DID
21 NOT.
22 Q. WITH THE PASSAGE OF TIME, DID
23 YOU INCREASE YOUR INTAKE OF ALCOHOLIC
24 BEVERAGES?
25 A. I DID.
26 Q. BY 1965, WHEN YOU CAME TO
27 LOS ANGELES, DID YOU THINK THAT
28 SOMETIMES YOU DRANK TOO MUCH?
7852
1 A. YES, I DID.
2 Q. WHY DON'T YOU EXPLAIN A LITTLE
3 BIT ABOUT THAT.
4 A. THERE WAS CERTAINLY TIMES IN
5 THE MORNING WHEN I WOULD GET UP AND I
6 HAD WHAT'S COMMONLY REFERRED TO AS A
7 HANGOVER, WHERE YOU'VE HAD TOO MUCH TO
8 DRINK.
9 THERE WERE TIMES WHEN I WASN'T
10 HOME AT AN APPROPRIATE TIME FOR
11 DINNER. I'D STOP, MAYBE, FOR A DRINK
12 OR TWO, WITH PEOPLE I WORKED WITH FOR
13 THE MOST PART, AND CERTAINLY, THAT WAS
14 GETTING IN THE WAY OF MY -- MY FAMILY.
15 AND THERE WERE INDICATORS THAT I WAS
16 DRINKING TOO MUCH.
17 Q. WHAT DOES THAT

18 MEAN, "INDICATORS"?
19 A. THE ONES THAT I JUST
20 MENTIONED. THIS WASN'T WHAT I WOULD
21 CONSIDER TO BE NORMAL DRINKING. THIS
22 DIDN'T FALL WITHIN THE PARAMETER OF
23 HAVING A DRINK AND GOING ABOUT YOUR
24 BUSINESS.
25 Q. OKAY. DID YOUR WIFE EVER GIVE
26 YOU SOME -- SOME LECTURE OR SOME WORDS
27 ABOUT THE FACT THAT MAYBE YOU SHOULD
28 COME HOME DIRECTLY FROM WORK AND NOT
7853
1 HANG OUT WITH THE BOYS FOR A COUPLE OF
2 DRINKS?
3 A. ON MORE THAN ONE OCCASION, SHE
4 VOICED HER CONCERNS ABOUT THE AMOUNT
5 OF ALCOHOL I WAS DRINKING, AND SHE
6 VOICED HER CONCERNS ABOUT THE IMPACT
7 IT WAS HAVING ON OUR MARRIAGE AND OUR
8 FAMILY.
9 Q. WAS THAT -- THIS IS A SHOW OF
10 BRILLIANCE ON MY PART -- A NEGATIVE
11 IMPACT?
12 A. IT WAS A NEGATIVE IMPACT.
13 Q. DID YOU HEAR THINGS LIKE THAT
14 BEFORE YOU MOVED TO LOS ANGELES?
15 A. NOT REALLY.
16 Q. DO YOU KNOW WHAT VALIUM IS?
17 A. I CERTAINLY DO.
18 Q. WHAT IS IT?
19 A. IT'S A TRANQUILIZER.
20 Q. HAVE YOU EVER TAKEN VALIUM?
21 A. I HAVE.
22 Q. WHEN IS THE FIRST TIME YOU'VE
23 EVER TAKEN VALIUM?
24 A. IT WAS PRESCRIBED FOR ME BY A
25 DOCTOR IN AN EMERGENCY WARD AT
26 MONTEBELLO HOSPITAL. AND I BELIEVE
27 THAT THAT PRESCRIPTION WAS IN 1966
28 OR '67.
7854
1 Q. SO I'M LITTLE BIT -- I'M A
2 LITTLE BIT AHEAD OF THE GAME, THEN,
3 WHEN I'M ASKING ABOUT VALIUM?
4 A. RIGHT.
5 Q. WELL, AS LONG AS I'M SLIGHTLY
6 AHEAD OF THE GAME, WHY WAS THAT VALIUM
7 PRESCRIBED IN MONTEBELLO IN '66
8 OR '67?
9 WHAT WAS IT THAT YOU WERE
10 UNDERGOING?
11 A. I WAS AT A LUNCHEON MEETING
12 WITH SOME MEN THAT I WORKED WITH AND
13 SOME MEN THAT I WORKED FOR, AND THERE
14 WAS ALSO SOME CLIENTS THERE, ALSO.
15 AND WHAT I HAD WAS AN ANXIETY ATTACK.
16 I DIDN'T KNOW THAT I WAS HAVING AN
17 ANXIETY ATTACK. I THOUGHT I WAS
18 HAVING A HEART ATTACK.
19 I WAS HAVING A HARD TIME BREATHING,
20 CATCHING MY BREATH. I WAS PERSPIRING.
21 AND TO ME, IT SEEMED LIKE, ALTHOUGH I
22 HAD NEVER HAD A HEART ATTACK BEFORE,

23 IT SEEMED LIKE THAT WOULD BE THE
24 SYMPTOMS THAT ONE WOULD HAVE IF YOU
25 WERE HAVING ONE.
26 A VERY CLOSE FRIEND OF MINE
27 WAS SITTING NEXT TO ME AT THE TABLE.
28 I LEANED OVER AND ASKED HIM IF HE
7855
1 WOULD MIND -- OF IF HE WOULD DRIVE ME
2 TO THE HOSPITAL, THE NEAREST HOSPITAL,
3 I NEEDED TO BE CHECKED OUT. AND, IN
4 FACT, HE DID THAT.
5 AND THE -- THE DOCTOR ON DUTY
6 DID THE NORMAL THINGS AND STRAPPED ME
7 UP TO AN EKG MACHINE. AND AFTER A
8 REALLY SHORT PERIOD OF TIME, HE -- HE
9 SAID THAT I WAS -- I CERTAINLY WASN'T
10 HAVING A HEART ATTACK. HE ASKED ME IF
11 I WAS UNDER PRESSURE, AND HE ASKED ME
12 IF I WAS UNDER TENSION. AND HE
13 PRESCRIBED VALIUM AND WROTE THE SCRIPT
14 FOR THAT VALIUM PRESCRIPTION.
15 Q. BY THE WAY, MR. RELLER, WHAT
16 DID YOU TELL HIM?
17 DID YOU TELL HIM YOU WERE
18 UNDER TENSION?
19 A. I TOLD HIM I WAS.
20 Q. WHAT WAS THE TENSION?
21 A. I TOLD HIM THAT THE HOLIDAYS
22 WERE COMING UP AND I WAS ON A TIGHT
23 SCHEDULE, AND I TOLD HIM THAT I
24 WASN'T -- I HAD A LOT OF THINGS I HAD
25 TO DO IN A SHORT PERIOD OF TIME, AND I
26 WAS UNDER PRESSURE AND I WAS UNDER
27 TENSION.
28 Q. WAS IT THE SAME DAY, IN YOUR
7856
1 OWN MIND, YOU FIGURED, THIS IS NOT A
2 HEART ATTACK, THIS IS AN ANXIETY
3 ATTACK?
4 A. I'M SORRY. WOULD YOU ASK THAT
5 QUESTION.
6 Q. I'LL CHANGE IT. IT PROBABLY
7 IS A BAD QUESTION.
8 WAS IT THAT SAME DAY THAT
9 YOU'RE TALKING ABOUT WHEN YOU WENT TO
10 MONTEBELLO HOSPITAL THAT YOU FIGURED
11 TO YOURSELF, THIS WAS AN ANXIETY
12 ATTACK?
13 A. HE TOLD ME THAT THAT'S WHAT IT
14 WAS; THAT IT WAS NOT A HEART ATTACK.
15 Q. GOT IT. OKAY.
16 HAVE YOU EVER HAD AN ANXIETY
17 ATTACK BEFORE?
18 A. NO, I HAD NOT.
19 Q. HAVE YOU EVER HAD ONE SINCE?
20 A. YES, I HAVE.
21 Q. MORE THAN ONE?
22 A. MORE THAN ONCE.
23 Q. LET'S JUST GO BACKWARDS NOW.
24 WE'VE GOT YOU MOVING OUT TO L.A.
25 IN '65. YOU'VE TOLD US ABOUT GOING TO
26 MONTEBELLO HOSPITAL A YEAR OR SO
27 LATER.

28 DID YOU LIVE IN L.A. THAT
7857
1 WHOLE TIME?
2 A. I DID.
3 Q. IN THE [DELETED]?
4 A. YES.
5 Q. YOU CONTINUED TO WORK FOR
6 LITTON?
7 A. YES. ACTUALLY, I WORKED FOR A
8 WHOLLY OWNED DIVISION OF LITTON CALLED
9 HEWLETT-ROBBINS.
10 Q. THANK YOU.
11 AND YOU CONTINUED TO SMOKE
12 MARLBOROS?
13 A. YES.
14 Q. HOW MANY VALIUM TABLETS WAS
15 THAT PRESCRIPTION GOOD FOR?
16 A. IT WAS AN OPEN-ENDED
17 PRESCRIPTION, AND THE PRESCRIPTION WAS
18 TO TAKE AS REQUIRED.
19 Q. WHEN YOU FIRST GOT THAT
20 PRESCRIPTION FILLED AFTER THE FIRST
21 COUPLE OF DAYS OR SO, WERE YOU TAKING
22 THEM ANYMORE, OR WERE THEY NO LONGER
23 REQUIRED?
24 A. I WAS TAKING THEM REGULARLY.
25 Q. WHY?
26 A. IT TOOK THE ANXIETY ATTACK
27 ISSUE AND RESOLVED IT. I DIDN'T HAVE
28 ANY ANXIETY ANYMORE.

7858
1 Q. WELL, IF YOU HAD NO ANXIETY,
2 WHY CONTINUE TO TAKE THE VALIUM?
3 A. BECAUSE IF I WOULD GO FOR A
4 PERIOD OF TIME WITHOUT TAKING IT, I
5 WOULD START TO GET ANXIOUS.
6 Q. DO YOU REMEMBER THAT DOCTOR'S
7 NAME?
8 A. NO, I DO NOT.
9 Q. BEFORE YOU SAW THAT DOCTOR IN
10 MONTEBELLO, THEN, HOW LONG HAD IT BEEN
11 SINCE YOU HAD SEEN A DOCTOR?
12 A. 1957 WHEN I TURNED 18.
13 Q. WHY DID YOU SEE A DOCTOR IN
14 1957 WHEN YOU TURNED 18?
15 A. FOR PHYSICAL INDUCTION
16 CLASSIFICATION FOR THE UNITED STATES
17 MILITARY SERVICE.
18 Q. PHYSICAL INDUCTION
19 CLASSIFICATION MEANS DRAFT, RIGHT?
20 A. RIGHT.
21 Q. AFTER YOU SAW THAT DOCTOR IN
22 MONTEBELLO WHO GAVE YOU THE
23 PRESCRIPTION FOR THE VALIUM, WHEN IS
24 THE NEXT TIME AFTER THAT YOU SAW A
25 DOCTOR?
26 A. NOVEMBER 14TH, 2000.
27 Q. SO IF MY ARITHMETIC'S RIGHT,
28 WE'RE TALKING ABOUT A SPAN OF MORE

7859
1 THAN 30 YEARS WHERE YOU DIDN'T SEE A
2 DOCTOR?
3 A. UH-HUH. CORRECT.

4 Q. DIDN'T YOU GET SICK?
5 A. NO.
6 Q. COLDS?
7 A. A COLD, FLU.
8 Q. NOTHING ELSE?
9 A. NOTHING ELSE.
10 Q. SPORTS INJURIES?
11 A. NO.
12 Q. BAD BACK?
13 A. NO.
14 Q. BAD KNEES?
15 A. NO.
16 Q. DID YOU EVER GO BACK AND SEE
17 THAT DOCTOR AT MONTEBELLO HOSPITAL
18 AFTER THAT ONE TIME YOU TALKED ABOUT?
19 A. NO.
20 Q. DID YOU EVER REFILL THAT
21 PRESCRIPTION THAT THAT DOCTOR GAVE
22 YOU?
23 A. YES.
24 Q. MORE THAN ONCE?
25 A. YES.
26 Q. MORE THAN TEN?
27 A. YES.
28 Q. MORE THAN YOU CAN COUNT?
7860
1 A. YES.
2 Q. WAS THAT PRESCRIPTION REFILLED
3 JUST IN SOUTHERN CALIFORNIA?
4 A. NO.
5 Q. WHERE ELSE?
6 A. NEW YORK, FLORIDA AND
7 CALIFORNIA.
8 Q. THE SAME PRESCRIPTION?
9 A. SAME PRESCRIPTION.
10 Q. UNTIL WHEN?
11 A. 1971.
12 Q. SO WE'RE TALKING ABOUT A SPAN
13 OF SOMETHING LIKE FIVE YEARS, USING
14 THE SAME PRESCRIPTION?
15 A. YES.
16 Q. DID THERE COME A TIME WHEN YOU
17 THOUGHT THAT YOU WERE TAKING TOO MUCH
18 VALIUM?
19 A. YES.
20 Q. WAS THERE A TIME WHEN YOUR
21 WIFE TOLD YOU, IN ADDITION TO DRINKING
22 TOO MUCH, YOU WERE TAKING TOO MUCH
23 VALIUM?
24 A. YES.
25 Q. WHEN DID SHE FIRST REMARK ON
26 SOMETHING LIKE THAT?
27 A. WELL, SHE WAS -- FIRST
28 REMARKED ABOUT ALCOHOL ONLY PRIOR TO
7861
1 MY TAKING THE VALIUM. THAT WOULD HAVE
2 BEEN MAYBE TWO OR THREE MONTHS BEFORE
3 I TOOK THE VALIUM.
4 AND SHE WENT TO SEE A FAMILY
5 LAWYER AND -- WITH THE PURPOSE OF
6 DOING SOMETHING TO GET A DIVORCE OR
7 GET AN ANNULMENT OR DO SOMETHING TO
8 DISSOLVE THE MARRIAGE.

9 THE LAWYER, WHOSE NAME I CAN'T
10 REMEMBER, SUGGESTED TO HER THAT MAYBE
11 MY PROBLEM WAS THAT I WAS DRINKING TOO
12 MUCH, AND THAT HE KNEW A BIT ABOUT
13 THAT AND MAYBE I SHOULD COME IN AND
14 TALK TO HIM, WHICH I DID.

15 AND AFTER HIS EXPLAINING TO ME
16 WHAT HIS PROBLEM HAD BEEN AND HOW HE
17 HAD SOLVED IT, HE SUGGESTED TO ME THAT
18 IF I DIDN'T HAVE A PROBLEM, IT SHOULD
19 BE EASY FOR ME TO QUIT.

20 AND I AGREED WITH HIM, THAT IT
21 SHOULD HAVE BEEN AND WOULD BE. AND I
22 THEN DIDN'T DRINK FOR SIX MONTHS AT
23 HIS KIND OF TEST OR TRIAL PERIOD OR
24 LET'S PROVE THAT YOU'RE NOT. SO I
25 DIDN'T DRINK FOR SIX MONTHS.

26 Q. WELL, I THINK MAYBE YOUR
27 ANSWER TALKS AROUND IT, BUT LET'S
28 PROVE YOU'RE NOT WHAT?

7862

1 A. LET'S PROVE I'M NOT AN
2 ALCOHOLIC.

3 Q. OKAY. WAS THIS CONVERSATION
4 WITH THE LAWYER SAYING THAT HE
5 WAS -- THAT HE WAS AN ALCOHOLIC WHO
6 WAS NO LONGER DRINKING?

7 A. THAT'S CORRECT.

8 Q. HE WAS TRYING TO HELP YOU?

9 A. HE WAS CERTAINLY TRYING TO
10 HELP ME.

11 Q. WHEN YOU WENT FOR THE VALIUM
12 PRESCRIPTION, WAS THIS DURING THE SIX
13 MONTHS THAT YOU WERE NOT DRINKING?

14 A. IT WAS DURING THAT PERIOD,
15 YES.

16 Q. ONCE YOU STOPPED DRINKING FOR
17 THAT SIX-MONTH PERIOD AND BEFORE YOU
18 WENT TO MONTEBELLO HOSPITAL, WAS THERE
19 ANY DIFFERENCE IN YOUR LEVEL OF
20 ANXIETY DURING THAT TIME?

21 A. NOT THAT I'M AWARE OF UNTIL I
22 WAS SITTING THERE AT THAT TABLE, AND
23 THEN I WAS AWARE THERE WAS A DISTINCT
24 DIFFERENCE IN MY ANXIETY.

25 Q. OKAY. AFTER YOU GOT THE
26 VALIUM PRESCRIPTION, HOW MUCH LONGER
27 WAS IT THAT YOU DIDN'T DRINK?

28 A. FOUR MONTHS.

7863

1 Q. DURING THAT FOUR-MONTH PERIOD,
2 DID IT EVER OCCUR TO YOU THAT YOU WERE
3 USING THE VALIUM INSTEAD OF THE
4 ALCOHOL?

5 A. NOT ONCE.

6 Q. SUBSEQUENTLY, HAS IT OCCURRED
7 TO YOU THAT YOU WERE USING THE VALIUM
8 INSTEAD OF THE ALCOHOL?

9 A. ABSOLUTELY.

10 Q. AFTER SIX MONTHS OF NOT HAVING
11 ANY ALCOHOL, WHAT DID YOU DO?

12 A. WENT AND HAD A DRINK.

13 Q. JUST ONE?

14 A. OR MORE. AND THEN CONTINUED
15 TO DRINK.
16 Q. AND ONCE YOU STARTED DRINKING
17 AGAIN AFTER A SIX-MONTH ABSTINENCE,
18 DID YOU STOP TAKING THE VALIUM?
19 A. NO.
20 Q. SO LET'S COME BACK TO
21 YOUR -- IT IS YOUR THEN WIFE?
22 A. IT IS.
23 Q. WHAT WAS IT THAT SHE SAID TO
24 YOU ABOUT THE DRINKING AND THE VALIUM,
25 PLEASE?
26 A. ON A SUNDAY, EARLY EVENING,
27 SITTING QUIETLY IN OUR HOME, SHE
28 SUGGESTED THAT SHE HAD GIVEN IT
7864
1 CONSIDERABLE THOUGHT AND THAT ALL OF
2 THE TROUBLES, AS FAR AS SHE WAS
3 CONCERNED, IN OUR MARRIAGE HAD TO DO
4 WITH MY DRINKING AND MY USING OF
5 VALIUM.
6 AND IN A MOMENT OF CLARITY, I
7 AGREED WITH HER WITHOUT RESERVATION,
8 THAT, IN FACT, THAT WAS THE CASE. AND
9 I COULD SEE CLEARLY THAT SHE WAS
10 SERIOUS.
11 AND THERE WAS A DAUGHTER
12 INVOLVED IN THAT MARRIAGE THAT I'M
13 MORE THAN LITTLE BIT FOND OF, AND WHO
14 HAD KEPT THE MARRIAGE KIND OF GLUED
15 TOGETHER ANYHOW, AND I WANTED
16 DESPERATELY FOR THAT DAUGHTER TO HAVE
17 A MOTHER AND A FATHER CONTIGUOUS IN
18 THE SAME HOUSEHOLD. AND I AGREED WITH
19 HER THAT SHE WAS RIGHT AND THAT I
20 WOULDN'T DRINK ANY LONGER.
21 Q. OKAY. SO THAT WAS ON A
22 SUNDAY?
23 A. UH-HUH.
24 Q. AND DID YOU NOT DRINK ANY
25 LONGER?
26 A. NO. I DRANK. THE FOLLOWING
27 DAY, I FOUND MYSELF PULLING INTO -- AT
28 THE END OF THE DAY -- A BAR THAT I
7865
1 REGULARLY ATTENDED. AND I FOUND
2 MYSELF SITTING IN THE BAR, HAVING MY
3 SECOND DRINK BEFORE I REMEMBERED THAT
4 I HAD AGREED WITH HER AND THAT I
5 WOULDN'T DRINK ANYMORE.
6 Q. WHAT DID THAT DO FOR YOUR
7 MOMENT OF CLARITY, MR. RELLER?
8 A. I REALIZED THAT I WAS IN
9 TREMENDOUS TROUBLE WITH ALCOHOL AND
10 SCARED ME TO -- SCARED ME GOOD, SCARED
11 ME BIGTIME.
12 Q. SO WHAT YEAR WAS THAT, DO YOU
13 REMEMBER?
14 A. 1970.
15 Q. WHAT DID YOU DO ABOUT IT?
16 A. I TRIED A NUMBER OF THINGS. I
17 TRIED SWEARING OFF, TRIED TO SOLEMN
18 VOW, TRIED RESOLUTIONS, TRIED WRITING

19 MYSELF NOTES, TRIED CHANGING FRIENDS,
20 TRIED JUST ABOUT EVERYTHING I POSSIBLY
21 COULD.

22 THE THING I REMEMBER THE BEST
23 IS THAT I DON'T KNOW HOW MANY TIMES I
24 GOT UP IN THE MORNING AND SAID,
25 TODAY'S'S GOING TO BE DIFFERENT.
26 TODAY, I'M GOING TO GIVE MY EMPLOYER A
27 FULL DAY'S WORK, AND TODAY, I'M GOING
28 TO EAT A LUNCH THAT DOESN'T INCLUDE

7866

1 DRINKING, AND TODAY, I'M GOING TO COME
2 HOME EARLY AND HAVE DINNER AND NOT
3 DRINK, AND I'M GOING TO GET A GOOD
4 NIGHT'S SLEEP, AND I'M GOING TO START
5 A NEW CHAPTER IN MY LIFE.

6 IT WAS TO NO AVAIL. I
7 CONTINUED TO DRINK.

8 Q. WHAT DID YOUR WIFE DO ABOUT
9 ALL OF THIS?

10 A. SHE DIVORCED ME.

11 Q. WHEN WAS THAT?

12 A. THE DIVORCE WAS FINAL DECEMBER
13 OF 1970.

14 Q. AT SOME POINT, DID YOU TURN A
15 CORNER AS FAR AS SWEARING OFF ALCOHOL
16 WAS CONCERNED?

17 A. YEAH, I DID.

18 Q. WHEN?

19 A. ON JUNE 1ST, 1971.

20 Q. HOW?

21 A. SOMETHING HAPPENED TO ME. UM,
22 I HAD KIND OF A SPIRITUAL EXPERIENCE,
23 AND IT BECAME CLEAR TO ME THAT IT WAS
24 NECESSARY FOR ME TO CHANGE MY LIFE,
25 AND IT BECAME NECESSARY FOR ME TO
26 REALIZE THAT I COULDN'T DO IT ALONE.
27 AND IT OCCURRED TO ME IN THIS MOMENT
28 OF CLARITY, OR THIS MOMENT, THAT I

7867

1 SHOULD CALL ALCOHOLICS ANONYMOUS, AND
2 I DID. AND I STOPPED DRINKING.

3 Q. SO IS JUNE 1ST, 1971, WHAT,
4 YOUR FIRST AA MEETING OR THE DAY AFTER
5 MANY MEETINGS, YOU STOPPED?

6 A. IT'S THE DAY OF MY LAST DRINK,
7 AND IT'S THE DAY OF MY FIRST AA
8 MEETING.

9 Q. SO FOR -- THIS IS JULY 2002.
10 SO THAT MEANS FOR 21 YEARS NOW, YOU
11 HAVEN'T HAD A DROP OF ALCOHOL?

12 A. ACTUALLY, IT'S 31.

13 Q. WELL, I WAS WISHFULLY
14 THINKING.

15 A. THAT'S CORRECT.

16 Q. FOR 31 YEARS, YOU HAVEN'T HAD
17 A DROP OF ALCOHOL?

18 A. THAT'S CORRECT.

19 Q. BUT YOU KEPT TAKING THAT
20 VALIUM?

21 A. NO. I STOPPED TAKING VALIUM
22 SIMULTANEOUSLY WITH STOPPED DRINKING.

23 Q. SINCE JUNE 1ST, 1971, HAVE YOU

24 HAD ANY VALIUM?

25 A. NO.

26 Q. OBVIOUSLY -- ARE YOU A MEMBER

27 OF AA?

28 A. I AM.

7868

1 Q. HAVE YOU BEEN MEMBER OF AA

2 SINCE JUNE 1ST, '71?

3 A. I HAVE.

4 Q. DO YOU STILL GO TO MEETINGS?

5 A. I DO.

6 Q. OBVIOUSLY, YOU KNOW THE TERM

7 "SOBER," DON'T YOU?

8 A. YES.

9 Q. AND IN A SLIGHTLY DIFFERENT

10 CONTEXT THAT I'LL ASK YOU ABOUT IN A

11 MINUTE OR TWO, DO YOU KNOW THE

12 TERM "CLEAN"?

13 A. CLEAN?

14 Q. YES.

15 A. YES.

16 Q. WHAT DOES "SOBER" REFER TO,

17 ONLY ALCOHOL?

18 A. YES.

19 Q. AND YOU'VE BEEN SOBER FOR OVER

20 30 YEARS?

21 A. 31 YEARS AND CHANGE.

22 Q. WHAT DOES "CLEAN" REFER TO?

23 A. FREE FROM ANY DRUG OF ANY

24 KIND.

25 Q. YOU'VE BEEN CLEAN FOR

26 31 YEARS?

27 A. I HAVE.

28 Q. AND JUST SO WE'RE CLEAR, I'M

7869

1 NOT LIMITING THIS TO VALIUM NOW, I'M

2 LIMITING IT TO ANY KIND OF A PILL OR

3 DRUG OR -- LET'S LEAVE IT AT THAT.

4 A. ANY MOOD OR MIND ALTERING

5 DRUG, TOTALLY CLEAN.

6 Q. WHEN YOU FIRST WENT TO AN AA

7 MEETING, DID YOU JUST WALK IN OFF THE

8 STREET?

9 A. NO. I MADE A PHONE CALL TO

10 WHAT'S CALLED CENTRAL OFFICE, WHICH IS

11 A PLACE WHERE THEY ANSWER PHONES AND

12 TAKE PHONE CALLS FROM PEOPLE WHO ARE

13 IN TROUBLE. AND I TOLD THEM WHERE I

14 LIVED, AND THEY TOLD ME WHERE THE

15 MEETING WAS THAT WAS THE MOST

16 CONVENIENT TO WHERE I LIVED AND TOLD

17 ME THAT THERE WOULD BE SOMEBODY THERE

18 TO MEET ME IF I COULD -- IF THAT WAS

19 ALL RIGHT, IF THAT WORKED.

20 AND I SAID THAT WAS FINE, SO I

21 WENT TO THAT PARTICULAR LOCATION, AND

22 THERE WAS SOMEONE THERE WAITING FOR

23 ME.

24 Q. SOMEONE YOU DID NOT KNOW?

25 A. THAT'S CORRECT.

26 Q. DO YOU KNOW WHAT A SPONSOR IS?

27 A. YES.

28 Q. WHAT'S A SPONSOR?

7870

- 1 A. I'M SORRY. I DIDN'T HEAR THE
2 QUESTION.
3 Q. EXPLAIN TO THE JURY WHAT A
4 SPONSOR IS IN TERMS OF WHAT WE'RE
5 TALKING ABOUT.
6 A. IT'S SOMEONE WHO EXPLAINS TO
7 YOU HOW THE PROGRAM WORKS, AND SOMEONE
8 THAT HELPS YOU THROUGH -- THERE'S A
9 SERIES OF STEPS -- AND SOMEONE HELPS
10 YOU UNDERSTAND THOSE STEPS, AND
11 SOMEONE THAT HELPS YOU APPLY THEM TO
12 YOUR LIFE. IT'S A -- IT'S A TEACHER
13 MORE THAN ANYTHING ELSE, A GUIDE.
14 Q. DID YOU HAVE ONE OF THOSE?
15 A. I DID.
16 Q. AND SUBSEQUENTLY, AS THE YEARS
17 WENT ON, HAVE YOU BEEN ONE OF THOSE?
18 A. I HAVE.
19 Q. TO VARIOUS PEOPLE?
20 A. YES.
21 Q. WHERE, GEOGRAPHICALLY, WAS IT
22 THAT YOU STARTED GOING TO AA MEETINGS?
23 A. WEST LOS ANGELES.
24 Q. WHY -- THE LAST TIME I ASKED
25 YOU, I THINK WE WERE OVER IN PASADENA
26 SOMEPLACE. HOW DID WEST L.A. COME
27 INTO PLAY?
28 A. WELL, I HAD MOVED TO THE WEST

7871

- 1 LOS ANGELES AREA AND WAS GOING TO
2 MEETINGS CLOSE TO MY HOME.
3 Q. OKAY. WHEN YOU FIRST STARTED
4 GOING TO MEETINGS, GIVE US AN IDEA HOW
5 OFTEN YOU'D GO.
6 A. EVERY DAY. SOMETIMES MORE
7 THAN ONCE A DAY.
8 Q. LIKE EVERY DAY EXCEPT
9 SATURDAYS OR SUNDAYS?
10 A. NO. EVERY DAY.
11 Q. EVERY DAY EXCEPT WHEN IT WAS
12 RAINING?
13 A. NO. EVERY DAY.
14 Q. WHEN IS THE LAST TIME YOU WERE
15 AT AN AA MEETING?
16 A. FRIDAY.
17 Q. WHEN IS THE LAST TIME BEFORE
18 THAT YOU WERE AT AN AA MEETING?
19 A. MONDAY.
20 Q. WAS THERE SOME PERIOD OF TIME
21 WHERE YOU WENT TO MEETINGS DAILY FOR,
22 LIKE, AT LEAST SIX MONTHS OR A YEAR OR
23 EVEN LONGER?
24 A. YES.
25 Q. HOW LONG?
26 A. FIVE YEARS.
27 Q. AT AA, WAS ALCOHOL THE ONLY
28 FOCUS, THE PRIMARY FOCUS, OR ONE OF

7872

- 1 THE FOCUSES?
2 A. THE ONLY FOCUS.
3 NOT MUCH WAS KNOWN ABOUT DUAL
4 ADDICTION AT THE TIME I GOT SOBER.

5 AND UNDERSTANDABLY, THERE WAS A GREAT
6 INVESTMENT IN KEEPING THE ALCOHOLICS
7 ANONYMOUS NAME AND ITS FOCUS PURELY ON
8 ALCOHOL. THERE WERE A LOT OF PEOPLE
9 DEPENDING FOR THEIR LIVES ON THE
10 PROGRAM.

11 AND THERE WAS ADDITIONALLY
12 ANOTHER ENTITY, CALLED NARCOTICS
13 ANONYMOUS, THAT HAD BEEN FOUNDED AFTER
14 ALCOHOLICS ANONYMOUS THAT WAS
15 AVAILABLE FOR THOSE PEOPLE WHO WANTED
16 TO DISCUSS THEIR DRUG PROBLEMS OR
17 THEIR CHEMICAL ADDICTION PROBLEMS.

18 Q. IN ADDITION TO GOING TO
19 ALCOHOLICS ANONYMOUS, DID YOU FIND
20 YOUR WAY TO NARCOTICS ANONYMOUS?

21 A. I DID.

22 Q. BECAUSE OF THE VALIUM?

23 A. CORRECT.

24 Q. ASIDE FROM ALCOHOL AND ASIDE
25 FROM VALIUM, HAD YOU TAKEN ANY OTHER
26 KIND OF -- I FORGET THE PHRASE YOU
27 USED. I'M SURE IT'S SOMETHING
28 THAT'S -- THAT'S USED IN YOUR

7873

1 MEETINGS, BUT MIND-ALTERING
2 SUBSTANCES, BESIDES THESE TWO THINGS?
3 A. NO. THOSE ARE THE ONLY TWO
4 THINGS THAT I USED.

5 Q. SO DURING THE '60S WHEN
6 YOU -- CAN YOU RECALL IN THE '60S, IT
7 WAS SOMEWHAT OF A DRUG CULTURE THAT
8 AROSE?

9 A. I REMEMBER IT WELL.

10 Q. AS FAR AS SMOKING MARIJUANA
11 AND DOING THINGS LIKE THAT?

12 A. UH-HUH.

13 Q. WERE YOU PART OF THAT?

14 A. NO, I WAS NOT.

15 Q. IS IT CORRECT THAT FOR YOU, WE
16 WERE TALKING ABOUT ALCOHOL AND VALIUM
17 ONLY?

18 A. THAT'S CORRECT.

19 Q. I'LL TELL YOU SOMETHING ELSE
20 THAT'S CORRECT. THE VIDEOGRAPHER JUST
21 GIVE ME THE SIGN. WE'VE GOT --
22 DID YOU ENJOY YOUR BALANCE
23 BAR?

24 A. YES, THANK YOU.

25 Q. WAS NARCOTICS ANONYMOUS CALLED
26 SOMETHING ELSE FOR A PERIOD OF TIME?

27 A. YEAH, IT WAS. IT WAS CALLED
28 SYNANON.

7874

1 Q. AND IS THAT ORGANIZATION, BY
2 ONE NAME OR ANOTHER, STILL IN
3 EXISTENCE?

4 A. NO, IT'S NOT.

5 Q. SO THERE'S NO MORE SYNANON?

6 A. THERE'S NO ORGANIZED PLACES
7 WHERE SYNANON WOULD HAVE A MEETING.

8 Q. NO MORE NARCOTICS ANONYMOUS?

9 A. THERE IS NARCOTICS ANONYMOUS.

10 Q. THERE IS?
11 A. YES. BUT NO MORE SYNANON.
12 Q. YOU TOLD US JUST A LITTLE
13 WHILE AGO -- AT LEAST ON THIS
14 VIDEOTAPE IT WAS LITTLE WHILE AGO, IT
15 WAS BEFORE OUR BREAK, THAT LAST WEEK,
16 I GUESS A COUPLE OF TIMES YOU WERE AT
17 ALCOHOLIC ANONYMOUS MEETINGS.
18 WHEN WAS THE LAST TIME WHEN
19 YOU WERE AT ANY KIND OF A MEETING
20 HAVING TO DO WITH VALIUM?
21 A. THE LAST TIME I WAS IN A
22 MEETING THAT HAD TO DO WITH VALIUM?
23 Q. YES.
24 A. OH, IT WAS 27, 28 YEARS AGO.
25 Q. I SEE.
26 WHEN YOU WENT TO ALCOHOLICS
27 ANONYMOUS MEETINGS IN THE BEGINNING,
28 JUST GIVE US AN IDEA, HOW LONG DO THEY
7875
1 LAST?
2 A. NORMALLY, AN HOUR AND A HALF.
3 Q. SOMETIMES, YOU GET A CHANCE TO
4 SPEAK?
5 A. SOMETIMES, YOU WERE GIVEN AN
6 OPPORTUNITY TO SPEAK, ASKED TO SPEAK.
7 Q. IN THE FIRST YEAR OR SO THAT
8 YOU WERE GOING TO AA MEETINGS, DID YOU
9 MEET SOMEONE WHO YOU SUBSEQUENTLY
10 BECAME VERY CLOSE TO?
11 A. I DID.
12 Q. AND WHO WAS THAT?
13 A. THE WOMAN WHO BECAME MY WIFE.
14 Q. AT THAT TIME, WHAT WAS HER
15 NAME?
16 A. MADELEINE, AND HER LAST NAME
17 WAS REGUL, R-E-G-U-L.
18 Q. SO I GUESS IF SHE BECAME YOUR
19 WIFE, HER NAME BECAME MADELEINE
20 RELLER?
21 A. IT DID.
22 Q. HOW LONG HAVE THE TWO OF YOU
23 BEEN TOGETHER?
24 A. SINCE JANUARY -- MID JANUARY,
25 1973.
26 Q. WHEN WAS IT THAT YOU MET HER,
27 PLEASE?
28 A. I MET HER IN DECEMBER OF 1972.
7876
1 Q. SO THAT MEANS YOU HAD BEEN
2 GOING TO THE MEETINGS FOR SOMETHING
3 LIKE, WHAT, A YEAR AND A HALF OR SO?
4 A. YES, THAT'S RIGHT.
5 Q. DURING THAT TIME, DID YOU
6 CONTINUE TO WORK AT LITTON?
7 A. NO. WHEN -- THE PERIOD OF
8 TIME WHEN I MET MADELEINE, I WAS
9 WORKING FOR A COMPANY CALLED RAWLINS
10 COMMUNICATION.
11 Q. ROUGHLY, WHEN IS IT THAT YOU
12 SWITCHED FROM LITTON, PLEASE?
13 A. WELL, I STOPPED WORKING FOR
14 HEWLETT-ROBBINS, THE DIVISION OF

15 LITTON INDUSTRIES, IN 1968 AND WORKED
16 FOR -- WENT BACK TO WORK FOR THE
17 COMPANY THAT MY FATHER WORKED FOR IN
18 SYRACUSE, NEW YORK.

19 Q. CAN YOU TELL US WHAT THAT IS,
20 PLEASE?

21 A. THAT'S AN INDUSTRIAL RUBBER
22 COMPANY.

23 Q. SO SOMEPLACE -- I'VE SKIPPED
24 OVER A MOVE OUT OF LOS ANGELES?

25 A. THAT'S CORRECT.

26 Q. WHY DON'T YOU TELL US WHEN IT
27 IS THAT YOU MOVED OUT OF LOS ANGELES.

28 A. IN NOVEMBER, APPROXIMATELY

7877

1 1968, I LEFT LOS ANGELES AND WENT TO
2 SYRACUSE, NEW YORK, AND STAYED IN
3 SYRACUSE, NEW YORK, UNTIL
4 APPROXIMATELY JULY OF 1969.

5 AND IN JULY OF 1969, I MOVED
6 TO MIAMI, FLORIDA, AGAIN, AND LIVED IN
7 MIAMI, FLORIDA, UNTIL WHAT WOULD BE
8 ROUGHLY DECEMBER, '70, JANUARY '71. I
9 MOVED BACK TO LOS ANGELES IN NOVEMBER
10 OF '70, JANUARY OF '71.

11 Q. ALL RIGHT. THANKS.

12 WHEN YOU WERE LIVING DOWN IN
13 MIAMI, WERE YOU WORKING FOR THE SAME
14 COMPANY --

15 A. I WAS.

16 Q. -- THAT YOU WERE WORKING FOR
17 UP IN NEW YORK STATE?

18 A. YES.

19 Q. WHEN YOU LEFT MIAMI, DID YOU
20 CONTINUE WORKING FOR THEM?

21 A. NO, I DID NOT.

22 Q. WHAT WAS YOUR REASON FOR
23 LEAVING MIAMI THE SECOND TIME?

24 A. I HAD ENJOYED VERY MUCH LIVING
25 IN CALIFORNIA. I HAD FRIENDS OUT HERE
26 IN CALIFORNIA. THE ECONOMY WAS NOT
27 PARTICULARLY GOOD IN FLORIDA WHEN I
28 LEFT. THE BUSINESS ECONOMY. THE

7878

1 ECONOMY WAS BETTER HERE. I WANTED A
2 NEW START IN LIFE. AND IT JUST SEEMED
3 LIKE A GOOD -- IT JUST SEEMED LIKE A
4 GOOD MOVE, A GOOD CAREER MOVE, AND A
5 GOOD PHYSICAL MOVE, AND IT JUST SEEMED
6 APPROPRIATE UNDER THE CIRCUMSTANCES.

7 Q. OKAY. THANKS.

8 WHEN YOU CAME TO L.A. THE
9 SECOND TIME, HAD YOU ALREADY BEEN
10 DIVORCED AT THAT POINT?

11 A. I HAD, YES.

12 Q. DID THAT DIVORCE OCCUR WHERE,
13 ON THE EAST COAST?

14 A. IT OCCURRED IN FLORIDA.

15 Q. WHEN YOU CAME BACK TO L.A. THE
16 SECOND TIME, WAS IT AGAIN BY AIRPLANE?

17 A. IT WAS.

18 Q. WERE YOU AGAIN SMOKING?

19 A. I WAS.

20 Q. ON THE AIRPLANE?
21 A. YES.
22 Q. LET'S TALK JUST A BIT, IF WE
23 COULD, ABOUT WORK ENVIRONMENTS.
24 UP UNTIL, OH, LET'S SAY, 1972,
25 BECAUSE THAT'S SORT OF WHERE WE ARE,
26 ANYPLACE YOU HAD BEEN, WHETHER IT WAS
27 IN NEW YORK STATE OR IN FLORIDA OR IN
28 SOUTHERN CALIFORNIA, WAS IT OKAY TO
7879
1 SMOKE AT WORK?
2 A. YES.
3 Q. IN THE -- IN YOUR OFFICE?
4 A. YES.
5 Q. IN A ROOM JUST LIKE WE'RE IN
6 RIGHT NOW?
7 A. YES.
8 Q. WAS IT OKAY IN ALL OF THOSE
9 PLACES TO SMOKE IN RESTAURANTS?
10 A. YES.
11 Q. IN PUBLIC BUILDINGS?
12 A. YES.
13 Q. ANYWHERE YOU WANT?
14 A. YES.
15 Q. WERE YOU STILL -- IN 1972,
16 WERE YOU STILL SMOKING MARLBOROS?
17 A. IN 1972, I SWITCHED TO
18 BENSON & HEDGES MENTHOL.
19 Q. NOW, UP UNTIL THE TIME YOU
20 SWITCHED TO BENSON & HEDGES MENTHOL,
21 HAD IT BEEN ONLY PALL MALL AND
22 MARLBORO?
23 A. YES.
24 Q. BEFORE YOU SWITCHED TO
25 BENSON & HEDGES MENTHOL, WHAT WAS THE
26 FREQUENCY WITH WHICH YOU WERE SMOKING
27 THE MARLBOROS?
28 A. TWO PACKS A DAY.
7880
1 Q. I'M GOING TO PUSH YOU A LITTLE
2 BIT, MEMORYWISE HERE, BUT WHEN YOU
3 SWITCHED FROM MARLBOROS TO
4 BENSON & HEDGES, CAN YOU RECALL WHAT
5 THE COST OF A PACK OF CIGARETTES WAS
6 AROUND THAT TIME?
7 A. NO, I CAN'T. I REALLY CANNOT
8 REMEMBER WHAT A PACKAGE OF CIGARETTES
9 COST THEN.
10 Q. THAT'S FINE.
11 IF YOU'RE SMOKING TWO PACKS OF
12 CIGARETTES A DAY EVERY DAY, THAT'S A
13 COST THAT ADDS UP OVER THE YEARS?
14 A. YES, IT DOES.
15 Q. WHEN YOU -- I'M JUST FOCUSING
16 RIGHT AROUND -- AROUND THE TIME WHEN
17 YOU SWITCHED FROM THE ONE TO THE
18 OTHER.
19 DID YOU USUALLY BUY CIGARETTES
20 BY THE CARTON OR BY THE CASE OR BY THE
21 PACK, OR HOW?
22 A. NORMALLY, I PURCHASED THEM BY
23 THE PACKAGE.
24 Q. WOULD THAT MEAN THAT YOU'D

25 HAVE TO MAKE TWO DIFFERENT PURCHASES
26 EVERY DAY?
27 A. GENERALLY NOT. WHAT THAT
28 WOULD MEAN IS THAT I'D BUY TWO
7881
1 PACKAGES AT ONE TIME.
2 Q. OKAY. WELL, DO YOU KNOW HOW
3 LONG IT TAKES TO SMOKE A CIGARETTE?
4 A. NO, I DON'T. NO, I DON'T.
5 Q. DO YOU KNOW HOW MANY
6 CIGARETTES THERE ARE IN A PACK?
7 A. 20 -- THERE'S 20 CIGARETTES TO
8 A PACKAGE.
9 Q. SO YOU'RE TELLING US THAT
10 AROUND THE TIME YOU SWITCHED FROM
11 MARLBORO TO BENSON & HEDGES, YOU WERE
12 SMOKING 40 CIGARETTES A DAY?
13 A. THAT'S CORRECT.
14 Q. WHEN YOU'D WAKE UP IN THE
15 MORNING, HOW LONG WAS IT BEFORE YOU'D
16 HAVE YOUR FIRST CIGARETTE?
17 A. IT WOULD BE THE FIRST THING
18 THAT I WOULD DO.
19 Q. WELL, WOULD YOU -- WOULD YOU
20 GET OUT OF BED FIRST?
21 A. YES, I WOULD GET OUT OF BED,
22 AND I WOULD GO OUT INTO THE KITCHEN,
23 AND I WOULD LIGHT A CIGARETTE. AND I
24 WOULD PLUG IN THE COFFEE POT, AND I
25 WOULD SMOKE A CIGARETTE OR TWO UNTIL
26 THE COFFEE WAS READY.
27 Q. I GUESS SOME OF US HAVE HEARD
28 THAT CERTAIN CIGARETTES DURING CERTAIN
7882
1 PARTS OF THE DAY ARE MORE OUTSTANDING
2 THAN OTHERS.
3 HAVE YOU EVER HEARD THAT?
4 A. I'VE HEARD THAT.
5 Q. IS THAT SOMETHING THAT YOU
6 AGREE WITH?
7 A. YES.
8 Q. FOR YOU, WHEN WERE THE BEST?
9 A. THE MORNING CIGARETTES WERE
10 THE BETTER -- THE BEST -- THE BETTER
11 CIGARETTES, THE MOST ANTICIPATED OR
12 LOOKED FORWARD TO OR ENJOYED.
13 Q. HOW LONG WOULD YOU BE AWAKE
14 BEFORE YOU COULD -- BEFORE YOU'D HAVE
15 YOUR FIRST CIGARETTE?
16 A. LENGTH OF TIME IT TOOK ME TO
17 GET FROM THE BEDROOM TO THE KITCHEN.
18 Q. WHAT WAS THAT?
19 A. 30 SECONDS, 45 SECONDS, A
20 MINUTE.
21 Q. OKAY. RESPECTFULLY, THEN, HOW
22 COULD THAT BE THE MOST ANTICIPATED IF
23 YOU HAD ONLY BEEN AWAKE FOR 30 OR 45
24 SECONDS?
25 A. THE KIND OF A SMOKER I WAS, IS
26 I KNEW THAT I WAS GOING TO HAVE THAT
27 CIGARETTE THE MINUTE I WOKE UP. I
28 WANTED THAT CIGARETTE THE MINUTE I
7883

1 WOKE UP. I DIDN'T HAVE BUT 30 TO 45
2 SECONDS OR MAYBE A MINUTE TO
3 ANTICIPATE HAVING IT, BUT IT DIDN'T
4 CHANGE THE FACT THAT WITHIN THAT 30 TO
5 45 SECONDS TO A MINUTE, I WAS
6 ANTICIPATING HAVING THAT CIGARETTE AND
7 ANTICIPATING NOTHING ELSE.

8 Q. SO YOU DIDN'T MEAN BY THAT
9 THAT YOU WERE DREAMING ABOUT THAT
10 CIGARETTE ALL NIGHT?

11 A. NO, I WAS NOT.

12 Q. TYPICALLY, WHEN WOULD YOU HAVE
13 YOUR LAST CIGARETTE OF THE DAY?

14 A. JUST BEFORE I WENT TO SLEEP.

15 Q. IN BED?

16 A. GENERALLY NOT. PRIOR TO GOING
17 TO BED.

18 Q. I DON'T WANT TO GET OVERLY
19 PERSONAL WITH YOU HERE, BUT MORNING,
20 KITCHEN, COFFEE, CIGARETTE -- WHAT
21 WOULD YOUR ROUTINE BE AFTER THAT?

22 A. I GENERALLY HAVE -- IF IT WAS
23 A WORKDAY, I GENERALLY HAVE TWO CUPS
24 OF COFFEE. I'D PROBABLY HAVE TWO
25 CIGARETTES, MAYBE THREE CIGARETTES PER
26 CUP OF COFFEE. GO INTO THE SHOWER AND
27 GET SHOWERED UP, CLEANED UP, DRESSED,
28 READY TO GO.

7884

1 LEAVE THE HOUSE, PUT THE
2 CIGARETTES IN MY POCKET AS I WAS
3 WALKING OUT THE DOOR. I PROBABLY LIT
4 A CIGARETTE GOING OUT THE DOOR.

5 GOT IN MY CAR --

6 Q. LET ME -- LET ME STOP YOU
7 THERE, PLEASE.

8 ARE YOU SAYING THAT WITH EACH
9 CUP OF COFFEE, IT WOULD BE TWO OR
10 THREE CIGARETTES?

11 A. YES.

12 Q. YOU NEVER SMOKED CIGARETTES IN
13 THE SHOWER, DID YOU?

14 A. I'M SORRY?

15 Q. YOU NEVER SMOKED CIGARETTES IN
16 THE SHOWER, DID YOU?

17 A. NO, I NEVER SMOKED A CIGARETTE
18 IN THE SHOWER, NO.

19 Q. WHAT ABOUT DURING YOUR
20 SHAVING, ET CETERA, ROUTINE, DID YOU
21 EVER SMOKE?

22 A. I NEVER SMOKED CIGARETTES
23 WHILE I SHAVED.

24 Q. WHEN YOU LIVED NEAR
25 L.A. -- WE'RE IN '72 NOW -- DID YOU
26 USE PUBLIC TRANSPORTATION OR WERE YOU
27 LIKE ALL THE REST OF US, MOST OF US,
28 AND DRIVE A CAR?

7885

1 A. I DROVE A CAR.

2 Q. DID YOU SMOKE IN THE CAR?

3 A. YES.

4 Q. WHAT DID YOUR JOB ENTAIL
5 AROUND '72?

6 A. 1972, I WAS WORKING FOR
7 RAWLINS COMMUNICATIONS, AND THEY WERE
8 A COMPANY THAT SEIZED ON THE
9 OPPORTUNITY, BASED UPON THE CARTER
10 PHONE DECISION, WHICH WAS AN
11 OPPORTUNITY FOR BUSINESSES TO OWN
12 THEIR OWN TELEPHONE SYSTEMS, AND I
13 SOLD TELEPHONE SYSTEMS TO BUSINESSES.
14 Q. DID YOU MAKE BUSINESS CALLS?
15 A. I DID.
16 Q. GO TO PEOPLE'S OFFICES?
17 A. YES.
18 Q. SMOKE THERE?
19 A. YES.
20 Q. DID YOU HAVE AN OFFICE
21 YOURSELF?
22 A. YES.
23 Q. DID PEOPLE EVER VISIT YOU AT
24 YOUR OFFICE?
25 A. YES.
26 Q. DID YOU SMOKE THERE?
27 A. YES.
28 Q. GO TO BUSINESS LUNCHES?
7886
1 A. YES.
2 Q. SOCIAL ENGAGEMENT KIND OF
3 THING?
4 A. YES.
5 Q. SMOKED THERE?
6 A. YES.
7 Q. SOMETIMES, DID YOU EVER RUN
8 OUT OF CIGARETTES?
9 A. VERY RARELY.
10 Q. WHY?
11 A. I ALWAYS WAS CONSCIOUS OF HOW
12 MANY CIGARETTES I HAD LEFT, AND IF
13 IT -- IF THAT LEVEL OF CIGARETTES GOT
14 LOW ENOUGH SO THAT I WASN'T CERTAIN
15 WHETHER OR NOT THERE WOULD BE ENOUGH
16 TO LAST ME THROUGH, I'D ALWAYS GO ON
17 AND BUY ANOTHER PACKAGE OF CIGARETTES.
18 PROBABLY -- IF I -- IF I EVER RAN OUT
19 OF CIGARETTES TWO OR THREE TIMES, THAT
20 WOULD BE A LOT.
21 Q. OKAY.
22 YOU KNOW WHAT BUTTS ARE, DON'T
23 YOU?
24 A. WHAT -- WHAT ARE?
25 Q. BUTTS?
26 A. BUTTS, YES.
27 Q. WHAT ARE BUTTS?
28 A. THEY'RE THE SMOKED, OF THE
7887
1 SMALL PORTION OF THE REMAINING
2 CIGARETTE AFTER IT'S BEEN SMOKED.
3 Q. AFTER SOMEONE PUTS IT OUT,
4 IT'S WHAT'S LEFT OVER?
5 A. RIGHT.
6 Q. DID YOU EVER SMOKE THOSE?
7 A. YES.
8 Q. YOUR OWN?
9 A. SOMETIMES.
10 Q. STRANGERS'?

11 A. SOMETIMES.
12 Q. WHY?
13 A. I'D BE OUT OF CIGARETTES AND
14 NEEDED ONE TO GET TO WHERE I WAS
15 GOING, SO I'D SMOKE SOMEONE ELSE'S OR
16 IT WOULD BE AN INCONVENIENT TIME TO GO
17 BUY THEM.
18 Q. WHERE WOULD YOU GET THE BUTTS?
19 A. OUT OF ASHTRAYS.
20 Q. WHERE DID YOU GET STRANGERS'
21 BUTTS?
22 A. OUT OF ASHTRAYS.
23 Q. DIDN'T YOU THINK THAT WAS
24 WEIRD?
25 A. IT WASN'T PLEASANT. I DIDN'T
26 LIKE IT A LOT, NO.
27 Q. AT AA, WAS THE WORD "ADDICT"
28 USED?

7888

1 A. NOT REALLY, NO.
2 Q. AT NARCOTICS ANONYMOUS, WAS
3 THE WORD, "ADDICT" USED?
4 A. YES.
5 Q. DURING -- STILL IN THIS
6 TIME, '70 -- EARLY '70S, UP
7 TO '72 -- AND I'M JUST ARTIFICIALLY
8 USING THE TIME -- YOU SWITCHED TO
9 BENSON & HEDGES -- BUT DID YOU EVER
10 SAY TO YOURSELF, NICOTINE, ME, ADDICT?
11 A. NEVER.
12 Q. DID IT EVER OCCUR TO YOU?
13 A. NEVER.
14 Q. DID ANYONE EVER SAY THAT TO
15 YOU?
16 A. NO.
17 Q. CAN YOU COMPARE STOPPING
18 DRINKING TO STOPPING TAKING THE
19 VALIUM?
20 IS THERE -- IS THERE SOME WAY
21 TO COMPARE THAT, AS FAR AS ONE WAS
22 HARDER THAN THE OTHER?
23 MAYBE IT ISN'T. I DON'T KNOW.
24 A. IT WAS EASIER TO QUIT DRINKING
25 THAN IT WAS TO TAKE -- TO QUIT TAKING
26 VALIUM. INFINITELY EASIER. THE
27 RECOVERY TIME IS FASTER. THE LENGTH
28 OF TIME THAT THE ALCOHOL REMAINS IN

7889

1 YOUR SYSTEM IS LESS THAN VALIUM.
2 ALSO, I -- I'VE NEVER
3 DISCUSSED THIS, BUT IT OCCURS TO ME
4 THAT -- AND IT HAS OCCURRED TO ME IN
5 THE PAST, THAT YOU COULD TAKE VALIUM
6 MOST ANY TIME. AND AS A GENERAL RULE,
7 PEOPLE DIDN'T KNOW YOU WERE TAKING IT.
8 SO YOU COULD HAVE IT IN THE MORNING,
9 YOU COULD HAVE IT OTHER TIMES DURING
10 THE DAY. NOT THE SAME WITH ALCOHOL AT
11 ALL.
12 SO I GUESS BECAUSE IT WAS
13 PSYCHOLOGICALLY -- PSYCHOLOGICALLY
14 EASIER TO TAKE IT, I PROBABLY TOOK
15 MORE OF THE VALIUM THAN I WAS AWARE

16 THAT I WAS TAKING.
17 AND THE HALF-LIFE OF
18 VALIUM -- OR THE LENGTH OF TIME IT
19 STAYS IN YOUR SYSTEM IS DRAMATICALLY
20 LONGER THAN THE LENGTH OF TIME THAT
21 ALCOHOL STAYS IN YOUR SYSTEM.
22 ALSO, AT THE TIME I WAS
23 WITHDRAWING FROM VALIUM, ALCOHOL, VERY
24 LITTLE WAS KNOWN ABOUT THE WITHDRAWAL
25 OF VALIUM. A GREAT DEAL WAS KNOWN
26 ABOUT THE WITHDRAWAL OF ALCOHOL.
27 AND BECAUSE THE DESIRE IN ALCOHOLICS
28 ANONYMOUS MEETING IS TO KEEP THE FOCUS

7890

1 ON ALCOHOL, THERE WASN'T MUCH OF AN
2 OPPORTUNITY TO TALK ABOUT THE
3 WITHDRAWAL EFFECTS OF VALIUM.
4 SO ALL OF THOSE ISSUES MADE IT
5 A GREAT DEAL MORE DIFFICULT FOR ME TO
6 WITHDRAW FROM VALIUM THAN FROM
7 ALCOHOL.

8 Q. HOW COME YOU STOPPED GOING TO
9 THE NARCOTICS ANONYMOUS MEETINGS SO
10 LONG AGO, THEN, AND YOU'RE STILL GOING
11 TO THE ALCOHOLICS ANONYMOUS MEETINGS
12 NOW?

13 A. MY PRIMARY PROBLEM IS ALCOHOL.
14 I STARTED DRINKING WAY BEFORE I
15 STARTED TAKING VALIUM. VALIUM IS A
16 SECONDARY ISSUE TO ME. ALCOHOL IS A
17 PRIMARY ISSUE TO ME.

18 AFTER I GOT THROUGH
19 WITHDRAWING FROM VALIUM AND GETTING
20 COMFORTABLE LIVING WITHOUT IT, IT WAS
21 A LOT EASIER FOR ME TO IDENTIFY WITH
22 WHAT WAS GOING ON IN AN ALCOHOLICS
23 ANONYMOUS MEETING THAN IT WAS FOR ME
24 TO IDENTIFY WITH WHAT WAS GOING ON IN
25 A NARCOTICS ANONYMOUS MEETING. SO I
26 JUST FELT MORE COMFORTABLE IN AN AA
27 MEETING.

28 Q. OKAY. I WANT TO SHOW YOU SOME

7891

1 MORE PICTURES.
2 ARE YOU READY FOR SOME MORE
3 PICTURES?

4 A. SURE.

5 Q. GIVE ME YOUR -- BEFORE I DO,
6 GIVE ME YOUR BEST SHOT AS TO EXACTLY
7 WHEN IT WAS THAT YOU SWITCHED OVER TO
8 BENSON & HEDGES, PLEASE.

9 A. LATE '72 SOMETIME.

10 Q. OKAY. DO YOU REMEMBER THE
11 NUMBER OF THE LAST PICTURE?

12 A. YES. IT'S NO. 29.

13

14 THE COURT: WHY DON'T WE STOP IT HERE, AS HE GETS
15 INTO HIS NEXT THING HERE.

16 LADIES AND GENTLEMEN, YOU ARE ADMONISHED THAT
17 IT IS YOUR DUTY NOT TO CONVERSE AMONG YOURSELVES OR WITH
18 ANYONE ELSE ON ANY SUBJECT CONNECTED WITH THIS TRIAL, OR TO
19 FORM OR EXPRESS ANY OPINION THEREON UNTIL THE CAUSE IS
20 FINALLY SUBMITTED TO YOU.

21 WE'LL SEE YOU BACK AT 12:15. THAT'S 12:15
22 TODAY.

23
24 (AT 11:30 A.M., A LUNCH RECESS WAS TAKEN
25 UNTIL 12:15 P.M. OF THE SAME DAY.)
26
27
28

7892

1 CASE NUMBER: BC 261796
2 CASE NAME: RELLER V. PHILIP MORRIS
3 LOS ANGELES, CALIFORNIA TUESDAY, JULY 1, 2003
4 DEPARTMENT 307 HON. VICTORIA G. CHANEY, JUDGE
5 APPEARANCES: (AS NOTED ON TITLE PAGE.)
6 REPORTER: LINDA BICHE, CSR NO. 3359, RMR, CRR
7 TIME: 12:15 P.M.

8
9 - - O - -

10

11 THE COURT: BACK IN THE MATTER OF RELLER VERSUS
12 PHILIP MORRIS, BC 261796.

13 RUN, MR. SACKS. RUN.

14 THE RECORD SHOULD REFLECT THAT NOW ALL TWELVE
15 JURORS ARE PRESENT AND THAT ALL FOUR ALTERNATES ARE PRESENT.

16 ALL COUNSEL PREVIOUSLY STATED ARE PRESENT.

17 DR. LEWIS IS PRESENT.

18 I WANT TO REMIND YOU FOLKS THAT THE REASONS
19 THAT THERE ARE GAPS IN THE TAPE WHERE YOU HEAR -- WHERE YOU
20 HEAR NOTHING, BUT SOMEBODY'S CLEARLY TALKING, ARE AREAS
21 WHICH, FOR ONE REASON OR ANOTHER, I HAVE FELT IT
22 INAPPROPRIATE FOR THAT PART OF THE TAPE TO BE BEFORE THE
23 JURY.

24 SOMETIMES, THERE'S JUST GENERAL CHITCHAT ABOUT
25 WHERE YOU'RE GOING TO HAVE LUNCH THAT DAY. SOMETIMES,
26 THERE'S INFORMATION THAT'S, FOR EXAMPLE, HEARSAY. SOMEBODY
27 SAID THAT SOMEBODY ELSE SAID THAT SOMEBODY ELSE SAID. AND
28 THOSE ARE NOT THINGS THAT I CAN ALLOW IN DURING THE TRIAL.

7893

1 SO IF THERE'S A GAP, DON'T BLAME IT ON THE
2 ATTORNEYS. BLAME IT ON ME.
3 AND WITH THAT, MR. PIUZE, THE CLOCK IS TICKING.

4
5 (FREDERIC RELLER VIDEOTAPE DEPOSITION
6 CONTINUED BEING PLAYED BY THE PLAINTIFF
7 AND REPORTED AS FOLLOWS:)
8

9 Q. CAN YOU COMPARE THE SIZE OF
10 THOSE TWO STACKS?

11 A. YES.

12 Q. IS THE BAD NEWS THAT I'M
13 GIVING YOU MORE THAN 29?

14 A. YES. WAY MORE THAN 29.

15 Q. OKAY. THEN WHAT I'M GOING TO
16 TRY TO DO, MR. RELLER, IS NOT ASK YOU
17 SO MANY QUESTIONS ABOUT EACH
18 INDIVIDUAL PICTURE, BUT I'D KIND OF
19 LIKE TO DISPLAY THEM. OKAY.

20 IS THAT A YES?

21 A. YEP, IT'S A DEAL.

22 Q. AND IF YOU COME ACROSS ONE OF
23 THOSE THAT YOU DON'T RECOGNIZE, AS
24 YOU'VE DONE WITH SOME HALVES OF THE
25 OTHER ADS, PLEASE LET US KNOW. OKAY?

26 A. OKAY.
27 Q. LET'S SEE. NO. 30, PLEASE.
28 WHEN IS THAT?
7894
1 A. THIS IS AUGUST OF 1968.
2 Q. IF YOU COME ACROSS ONE OF
3 THESE PICTURES THAT YOU HAVE NOT
4 INDEPENDENTLY PULLED OUT FROM MATERIAL
5 I'VE SHOWN YOU BEFORE, OR MY OFFICE
6 HAS SHOWN YOU, AND WHICH YOU DO NOT
7 INDEPENDENTLY RECALL SEEING WAY BACK
8 WHEN, YOU WILL TELL US, RIGHT?
9 A. YES, I WILL.
10 Q. EXCELLENT. THANK YOU.
11 SO WITH THAT IN MIND, GO
12 AHEAD.
13 THIS YEAR, PLEASE?
14 A. THIS IS SEPTEMBER 1968.
15 Q. DID YOU EVER SMOKE ANY
16 MARLBOROS OTHER THAN REDS?
17 A. NO. JUST REDS.
18 Q. THANK YOU.
19 NEXT?
20 A. DO YOU WANT ME TO NUMBER
21 THESE?
22 Q. I DO.
23 A. THIS IS OCTOBER 1968.
24 Q. THANK YOU.
25 A. THIS IS NOVEMBER 1968.
26 Q. THANK YOU.
27 A. NOVEMBER 1968.
28 Q. DO YOU REMEMBER EARLIER WHEN
7895
1 WE WERE DISCUSSING THE PALL MALL ADS,
2 THERE WERE SOME QUESTIONS AND ANSWERS
3 ABOUT THERE SEEMED TO BE A WOMAN
4 AROUND MOST OF THE TIME, SMOKING?
5 A. YES, I DO.
6 Q. IN THESE MARLBORO ADS YOU'VE
7 SHOWN US SO FAR, IS THE THEME
8 DIFFERENT, AS FAR AS YOU'RE CONCERNED?
9 A. YES.
10 Q. WHAT WAS THE THEME FOR YOU,
11 SIR?
12 A. A RUGGED SELF-SUSTAINING
13 INDIVIDUAL, ONE WHO ENJOYED THE
14 OUTDOORS. SOMEONE I'D LIKE TO BE LIKE
15 OR SOMEONE I IDENTIFIED WITH.
16 Q. MOST OF THESE COWBOYS YOU'VE
17 SHOWN US SO FAR LOOK TO BE IN PRETTY
18 GOOD HEALTH.
19 WOULD YOU AGREE WITH THAT?
20 A. YES.
21 Q. DID YOU EVER SEE ANY OF THOSE
22 COWBOYS SAYING IN THE ADS THAT
23 MARLBOROS WERE MAKING THEM FEEL BAD?
24 A. NO, I DIDN'T. NO.
25 Q. ALL RIGHT. AND THE YEAR FOR
26 THAT ONE, PLEASE?
27 A. THIS IS DECEMBER OF 1968.
28 Q. THANK YOU.
7896
1 A. THIS IS A CLIPPED -- AND I

2 DON'T REMEMBER THIS ONE AT ALL.
3 Q. OKAY. LOOK AT -- PUT THAT ONE
4 DOWN FOR A SECOND, PLEASE.
5 A. OKAY.
6 Q. PICK UP THAT NEXT AD.
7 DO YOU RECOGNIZE THAT ONE?
8 A. YES, I DO.
9 Q. AND WHAT YEAR IS THAT?
10 A. THIS IS A JANUARY OF 1969.
11 Q. IN THE UPPER CORNER THERE,
12 WHERE IT SAYS, "LIFE MAGAZINE" ON THE
13 FRONT, DOES IT TELL WHAT ISSUE?
14 A. IT'S VOLUME 66, NO. 2.
15 Q. OKAY. CAN I TAKE A LOOK?
16 THERE YOU GO.
17 OKAY.
18 AS THESE ADS HAVE BEEN HELD UP
19 FOR THE CAMERAS, I HAVEN'T BEEN ASKING
20 YOU, BUT HAVE ANY ONE OF THEM
21 CONTAINED ANY KIND OF A WARNING OR
22 CAUTION OR A NEGATIVE FLOW OF
23 INFORMATION ABOUT THE PRODUCTS THEY'RE
24 ADVERTISING?
25 A. NO, THEY HAVEN'T.
26 Q. OKAY.
27 A. THIS IS FEBRUARY OF 1969.
28 Q. THANKS.
7897
1 A. THIS IS MARCH OF 1969.
2 Q. WHAT NUMBER ARE YOU GOING TO
3 PUT ON THE BACK OF THAT, PLEASE?
4 A. I'M GOING TO PUT NO. 38.
5 Q. PLEASE DO SO.
6 A. APRIL OF 1969.
7 Q. THANK YOU.
8 A. APRIL OF 1969.
9 Q. OKAY. WHAT NUMBER IS THAT,
10 PLEASE?
11 A. THIS WILL BE NO. 40.
12 THIS IS MAY 30TH, 1969.
13 Q. OBVIOUSLY, THOSE AREN'T
14 MARLBOROS?
15 A. NO. THESE ARE BENSON & HEDGES
16 MENTHOL.
17 Q. DID YOU EVER SMOKE THE GOLD
18 THAT'S MENTIONED?
19 A. NO. JUST THE MENTHOL.
20 Q. WERE BENSON & HEDGES DIFFERENT
21 SIZES -- SIZE THAN THE MARLBOROS YOU
22 WERE SMOKING?
23 A. YES, THEY WERE.
24 Q. BEFORE YOU SMOKED
25 BENSON & HEDGES MENTHOL, DID YOU EVER
26 SMOKE ANY OTHER MENTHOL CIGARETTE?
27 A. I THINK THAT I MAYBE TRIED A
28 KOOL. A FRIEND HAD ONE OR SOMETHING.
7898
1 BUT NOT REALLY.
2 Q. SO WE'RE -- WE'RE TALKING
3 ABOUT A VERY, VERY SMALL NUMBER?
4 A. YES.
5 Q. GO AHEAD AND PUT A NUMBER ON
6 THAT, PLEASE.

7 A. THERE'S TWO CLIPPED TOGETHER.
8 ONE, I DON'T REMEMBER.
9 THIS ONE, I DO.
10 Q. OKAY.
11 A. THIS IS JUNE OF 1969.
12 Q. THANK YOU.
13 A. JULY OF 1969.
14 Q. THANK YOU, AGAIN.
15 DO YOU HAVE ANY THOUGHTS RIGHT
16 NOW -- I KNOW YOU WEREN'T, AS IT
17 TURNED OUT, A LOYAL MARLBORO SMOKER
18 BECAUSE YOU SWITCHED AFTER A
19 WHILE -- BUT DO YOU HAVE ANY THOUGHTS
20 ABOUT -- IN '69, '70, WHAT THE MOST
21 POPULAR CIGARETTE WAS?
22 A. A LOT OF PEOPLE WERE SMOKING
23 MARLBOROS, BUT I DON'T KNOW FOR
24 CERTAIN IF IT WAS OR NOT.
25 Q. FINE. I DON'T WANT TO YOU
26 GUESS.
27 A. OKAY.
28 Q. WHAT ABOUT --
7899
1 A. THIS IS A 1969, JULY.
2 Q. OKAY.
3 A. THIS IS AUGUST OF 1969.
4 AND THIS IS SEPTEMBER OF 1969.
5 Q. THANKS.
6 A. AGAIN, SEPTEMBER OF 1969.
7 Q. WHEN IS THE LAST TIME YOU RODE
8 A HORSE?
9 A. IN LAKE TAHOE IN 1979.
10 OCTOBER 1969.
11 Q. STILL NO WARNINGS, CAUTIONS,
12 NEGATIVE INFORMATION OF ANY KIND?
13 A. NO WARNING, NO CAUTION.
14 Q. THE COWBOY'S STILL LOOKING
15 PRETTY HEALTHY TO YOU?
16 A. YEAH, HE LOOKS GOOD TO ME.
17 Q. OKAY. THANK YOU.
18 A. AND THIS IS OCTOBER 1969.
19 Q. ALL RIGHT. IF I COULD JUST
20 BREAK UP THE FLOW HERE A LITTLE BIT,
21 BECAUSE PROBABLY EVERYONE'S EYES IN
22 THIS ROOM ARE -- HAVE SEEN ENOUGH ADS
23 FOR RIGHT NOW, MAYBE THE JURY HAS.
24 WERE -- WERE THESE ADS
25 REPEATED ON TELEVISION ALL THE TIME?
26 A. YES.
27 Q. SO WHEN YOU TURNED ON THE
28 TUBE, WOULD YOU SEE THE MARLBORO
7900
1 COWBOY THERE?
2 A. YES.
3 Q. HE ALWAYS LOOKED PRETTY GOOD
4 THERE?
5 A. YES.
6 Q. BY AROUND THE TIME YOU
7 SWITCHED FROM MARLBORO TO
8 BENSON & HEDGES, HAD YOU FELT -- YOU,
9 PERSONALLY, FELT ANY KIND OF A SOCIAL
10 STIGMA FROM NONSMOKERS, PEOPLE SORT OF
11 LOOKING AT YOU SAYING, HEY, JACK, YOU

12 KNOW, WHAT ARE YOU DOING?
13 A. NONE. NO.
14 Q. AT AROUND THE TIME THAT YOU
15 SWITCHED FROM MARLBOROS TO
16 BENSON & HEDGES, WOULD YOUR ESTIMATE
17 OF THE NUMBER OF ADULT MALES SMOKING
18 BE ABOUT THE SAME AS WHAT YOU TOLD US
19 ABOUT BEFORE?
20 A. YES.
21 Q. OKAY. THANK YOU.
22 SO WHY DON'T YOU CONTINUE WITH
23 THOSE NOW AND SEE IF WE CAN GET
24 THROUGH THEM.
25 A. JANUARY 30 OF 1970.
26 Q. IN JANUARY OF 1970, IS THERE
27 ANY KIND OF A -- TAKE A LOOK AT THAT
28 ONE. IS THERE ANY KIND OF A CAUTION
7901
1 THERE OR A WARNING OR ANYTHING LIKE
2 THAT?
3 A. NO. THERE'S NO CAUTION.
4 THERE'S NO WARNING.
5
6 THE COURT: CAN YOU MAKE IT LOUDER, PLEASE. IT'S
7 STARTING TO FADE OUT.
8
9 A. MARCH OF 1970.
10 Q. WAS THE THEME OF THAT AD
11 REPLAYED IN NUMEROUS WAYS?
12 A. YES, IT WAS.
13 Q. DO YOU RECALL THAT ADVERTISING
14 CAMPAIGN?
15 A. I DO.
16 Q. WHAT WAS IT THAT LED YOU TO
17 SWITCH FROM MARLBOROS OVER TO
18 BENSON & HEDGES?
19 A. I HAD HEARD THAT MENTHOL
20 CIGARETTES WERE LESS IRRITATING TO
21 YOUR THROAT. AND I HAD HEARD THAT
22 MENTHOL CIGARETTES HAD LESS TAR IN
23 THEM. AND I HAD HEARD THAT THE
24 BENSON & HEDGES MENTHOL, BECAUSE THEY
25 WERE LONGER THAN -- THAN THE OTHER
26 CIGARETTES, WERE ADDITIONALLY MORE
27 EFFECTIVE AT FILTERING OUT THE TARS,
28 AND I DECIDED TO TRY SMOKING THEM.
7902
1 Q. WHEN YOU SWITCHED FROM
2 MARLBORO TO BENSON & HEDGES, WAS
3 IT -- WAS IT THE KIND OF THING LIKE
4 FLIPPING A SWITCH, LIKE THAT, AND YOU
5 NEVER WENT BACK?
6 A. YES, THAT'S CORRECT.
7 Q. SO YOU'VE BEEN OFF MARLBOROS
8 NOW FOR 30 YEARS?
9 A. THAT'S RIGHT.
10 Q. OKAY. COULD YOU PUT A NUMBER
11 ON THAT, PLEASE.
12 A. THIS IS MARCH OF 1970.
13 Q. THANKS.
14 A. AND THIS IS MARCH OF 1970.
15 Q. WHAT DOES IT SAY RIGHT UNDER
16 THE TWO PACKS OF CIGARETTES THERE?

17 A. IT SAYS, "MARLBORO RED OR
18 LONGHORNS 100; YOU GET A LOT TO LIKE."
19 Q. HOW COME YOU SMILED?
20 A. WELL, LONGHORNS 100 JUST MAKES
21 ME SMILE. IT'S JUST MY SENSE OF
22 HUMOR.
23 Q. OKAY. YOU SEE, I WENT TO THE
24 UNIVERSITY OF TEXAS, SO I'M SENSITIVE.
25 A. BOOK 'EM.
26 Q. THAT'S RIGHT.
27 A. JUNE OF 1970.
28 Q. THANK YOU.

7903

1 A. JULY OF 1970.
2 Q. OKAY.
3 A. THIS ONE IS CLIPPED TOGETHER
4 AGAIN. ON SEPTEMBER OF 1970, I
5 REMEMBER THIS ONE. THIS ONE IS PART
6 OF THE TWO PAGES.
7 Q. OKAY.
8 NEXT?
9 A. SEPTEMBER OF 1970.
10 AND AGAIN, SEPTEMBER OF 1970.
11 Q. THANK YOU.
12 A. THIS IS OCTOBER OF 1970.
13 Q. WELL, WAIT. LET ME JUST
14 INTERRUPT FOR A SECOND.
15 DID YOU SAY BOTH OF THE LAST
16 ONES WERE SEPTEMBER OF '70?
17 A. YES. ONE WAS SEPTEMBER 11TH,
18 AND THIS ONE IS SEPTEMBER 25TH.
19 Q. OH, I SEE. OKAY.
20 A. OCTOBER 16TH, 1970.
21 OCTOBER 23RD, 1970.
22 Q. THANK YOU.
23 A. OCTOBER 30TH, 1970.
24 NOVEMBER 27TH, 1970.
25 DECEMBER 4TH, 1970.
26 Q. STILL NO WARNING?
27 A. STILL NO WARNING.
28 Q. NO CAUTION?

7904

1 A. NO CAUTION.
2 Q. ANY NEGATIVE INFORMATION?
3 A. NONE.
4 Q. SICK COWBOYS?
5 DO YOU SEE ANY SICK COWBOYS
6 YET?
7 A. NO, NO SICK COWBOYS.
8 Q. OKAY.
9 A. DECEMBER OF -- 18TH, 1970.
10 Q. THANK YOU.
11 A. YOU'RE WELCOME.
12 JANUARY 22ND, 1971.
13 Q. COULD YOU TAKE A LOOK AT THAT
14 ONE, JANUARY OF 1971. IT'S A NEW
15 YEAR.
16 WERE THERE ANY KIND OF
17 CAUTIONS ON THERE?
18 A. NO, THERE ARE NO CAUTIONS.
19 Q. NO WARNINGS?
20 A. THERE ARE NO WARNINGS.
21 Q. OR NEGATIVE INFORMATION?

22 A. THERE'S NO NEGATIVE
23 INFORMATION.
24 Q. DO YOU KNOW WHEN THE FIRST
25 WARNINGS WENT ON CIGARETTE PACKAGES?
26 A. NO, I DO NOT.
27 Q. DO YOU KNOW HOW MANY DIFFERENT
28 WARNINGS THERE HAVE BEEN ON CIGARETTE
7905
1 PACKAGES?
2 A. I'M ONLY CONSCIOUS OF TWO
3 DIFFERENT SETS OF WARNING -- WARNINGS.
4 Q. DO YOU KNOW WHEN WARNINGS WENT
5 ON ADVERTISING?
6 A. NO, I DON'T.
7 Q. DO YOU KNOW WHEN ADVERTISING
8 ON TELEVISION STOPPED?
9 A. NO, I DO NOT.
10 Q. WHAT DO YOU REMEMBER TO BE THE
11 FIRST WARNING, WHENEVER IT WAS?
12 A. I REMEMBER IT SAYING, CAUTION,
13 CIGARETTES MAY BE HAZARDOUS TO YOUR
14 HEALTH.
15 Q. ALL RIGHT. AND WHAT DO YOU
16 REMEMBER ABOUT THE SECOND WARNING?
17 A. IT SAID, CAUTION,
18 EITHER -- EITHER CIGARETTES CAN OR
19 CIGARETTES WILL -- I DON'T REMEMBER
20 WHICH -- WILL CAUSE EMPHYSEMA. I
21 REMEMBER THAT.
22 AND THAT WOMEN WHO ARE
23 PREGNANT SHOULDN'T SMOKE. I REMEMBER
24 THAT. OR CAUTION IF YOU'RE
25 SMOKING -- IF YOU'RE PREGNANT, DON'T
26 SMOKE OR IT CAN CAUSE A PROBLEM, BIRTH
27 DEFECTS.
28 Q. ALL RIGHT. WELL, WE'LL HAVE
7906
1 OTHER PEOPLE IN THE TRIAL WHO KNOW TO
2 THE SECOND WHEN THOSE THINGS OCCURRED.
3 BUT AS FAR AS -- AS FAR AS YOU KNOW,
4 YOU CAN'T TELL US WHEN YOU -- WHEN
5 THOSE WARNINGS WENT ON?
6 A. THAT'S CORRECT, I CANNOT.
7 Q. OKAY. YOU MENTIONED EARLIER
8 THAT YOUR SWITCH FROM PALL MALL
9 NONFILTERED WINSTONS -- EXCUSE
10 ME -- TO MARLBORO FILTER COINCIDED
11 WITH THE -- I THINK YOU SAID THE
12 SURGEON GENERAL'S REPORT?
13 A. I DID.
14 Q. WAS THERE A SIMILAR KIND OF
15 THING AT AROUND THE TIME THAT YOU WENT
16 FROM MARLBOROS TO BENSON & HEDGES
17 MENTHOL?
18 A. TO MY MEMORY, NO.
19 Q. OKAY. WHEN THE WARNINGS WENT
20 UP OR ON, SAYING, CAUTION, CIGARETTE
21 SMOKING MAY BE HAZARDOUS TO YOUR
22 HEALTH, WERE THERE PEOPLE OUT THERE
23 WHO DISAGREED WITH THAT?
24 A. YES.
25 Q. WERE YOU AWARE OF THAT?
26 A. YES.

27 Q. HOW WERE YOU AWARE OF IT?
28 A. I'VE READ INFORMATION,
7907
1 MATERIAL, THAT INDICATES THAT THERE
2 WERE. PLUS, I HAVE MEMORY OF SOME
3 PEOPLE APPEARING BEFORE THE -- THE
4 CONGRESSIONAL COMMITTEE OR CONGRESS
5 STATING THERE WAS NO PROBLEM WITH IT.
6 Q. WHEN YOU SAY SOME PEOPLE, ARE
7 YOU TALKING ABOUT THE LOCAL DOG
8 CATCHER?
9 A. NO. I'M TALKING ABOUT
10 OFFICERS OF MAJOR CIGARETTE COMPANIES.
11 Q. ALL RIGHT.
12 OKAY. LET'S GO BACK TO
13 THE -- WE'RE GOING TO TALK MORE ABOUT
14 THAT LATER. LET'S SEE IF I CAN GET
15 THROUGH THOSE PICTURES THERE IN FRONT
16 OF YOU. I SHOULD SAY, IF WE CAN,
17 PLEASE.
18 A. JANUARY OF 1971.
19 Q. THANK YOU.
20 A. AGAIN, JANUARY OF 1971.
21 Q. NOW, THAT DOESN'T LOOK LIKE A
22 MARLBORO AD RIGHT THERE?
23 A. NO. IT'S A BENSON & HEDGES
24 AD.
25 Q. WHAT WAS THE IDEA BEHIND THOSE
26 ADS, MR. RELLER, AS YOU RECALL?
27 WHAT DID YOU THINK OF IT?
28 A. WELL, IT CERTAINLY APPEALED TO
7908
1 MY SENSE OF HUMOR, AND THEY ALSO
2 CLEARLY LET YOU KNOW THAT THE
3 CIGARETTE WAS LONGER THAN THE NORMAL
4 CIGARETTE. EITHER YOU'RE GOING TO GET
5 MORE FOR YOUR MONEY OR YOU'RE GOING TO
6 GET SOME OTHER BENEFIT, MORE
7 FILTRATION OR SOMETHING. AND THEY
8 WERE UNIQUE AND SPECIAL AND DIFFERENT
9 AND NOT LIKE THE AVERAGE CIGARETTE.
10 Q. OKAY. WHAT NUMBER ARE WE UP
11 TO?
12 A. I'M DOING NO. 66 NOW.
13 THIS, AGAIN, IS ONE THAT'S
14 CLIPPED TOGETHER. THIS ONE, I
15 REMEMBER. THIS IS FEBRUARY OF 1971.
16 Q. THANKS. THANK YOU.
17 A. THIS IS MARCH OF '71.
18 Q. THANK YOU.
19 A. AND THIS IS MARCH OF 1971.
20 THIS IS APRIL OF '71.
21 Q. THANKS.
22 A. AND APRIL OF '71.
23 AND AGAIN, APRIL OF '71.
24 Q. I'VE ASKED YOU, ON OCCASION TO
25 READ WHAT'S -- WHAT THE ACTUAL TEXT
26 IS. IS THAT STILL SAYING SOMETHING
27 LIKE, "COME TO WHERE THE FLAVOR IS"?
28 A. THAT'S EXACTLY WHAT IT SAYS.
7909
1 Q. OKAY. "COME TO MARLBORO
2 COUNTRY"?

3 A. YES.
4 MAY OF '71.
5 Q. OKAY. NEXT.
6 A. I DON'T KNOW HOW THIS GOT IN
7 HERE. I DON'T REMEMBER THIS ONE.
8 Q. THROW IT ASIDE, PLEASE.
9 A. JULY OF 1971.
10 Q. THANK YOU.
11 WE'RE COMING CLOSE TO THE TIME
12 YOU ARE GOING TO BE SWITCHING?
13 A. YEAH, IT WON'T BE LONG NOW.
14 Q. JULY OF '71.
15 A. AND THIS IS, AGAIN, JULY
16 OF '71.
17 Q. THANKS.
18 WOULD YOU PUT A NUMBER ON THAT
19 AND TAKE A LOOK AT ANOTHER ONE.
20 A. THIS IS '76.
21 AUGUST OF '71.
22 THIS IS AUGUST OF '71. THIS
23 IS A TWO-PAGE AD. I REMEMBER THIS AD.
24 IT'S CLIPPED TOGETHER.
25 Q. OKAY.
26 A. OCTOBER OF 1971.
27 NOVEMBER OF '71.
28 Q. TELL ME WHAT LOOKS FAMILIAR.
7910
1 THANK YOU.
2 A. AND NOVEMBER OF '71.
3 NOVEMBER 19TH, 1971.
4 DECEMBER OF 1971.
5 Q. THANKS.
6 A. JANUARY OF 1972.
7 Q. HOW MANY MORE HAVE YOU GOT TO
8 GO THERE, MR. RELLER?
9 A. I'M GUESSING 50.
10 Q. THAT'S NOT GOOD NEWS.
11 TELL ME AGAIN WHEN YOU
12 SWITCHED, PLEASE.
13 A. I SWITCHED THE END OF 1972.
14 VOICE: COULD I ASK COUNSEL
15 HERE, IF HE LOOKS AT THE REMAINDER OF
16 THOSE PICTURES NOW THAT ARE IN FRONT
17 OF HIM AND SAYS THAT HE RECOGNIZES
18 THEM ALL, CAN WE JUST PUT NUMBERS ON
19 THEM WITHOUT DISPLAYING THEM ONE AT A
20 TIME FOR THE CAMERA?
21 DOES THAT SOUND LIKE A DEAL?
22 VOICE: I HAVE NO PROBLEM WITH
23 THAT.
24 VOICE: ANYBODY. NO
25 OBJECTIONS?
26 SO WHY DON'T YOU JUST,
27 PLEASE, COUNT THE NUMBERS THAT ARE
28 LEFT.
7911
1 THE WITNESS: THERE ARE 18
2 LEFT.
3 Q. SO 18 PLUS 84, I THINK IS, IS
4 102?
5 A. RIGHT.
6 Q. DOES THAT SOUND RIGHT?
7 A. RIGHT.

8 Q. SO WE'LL NUMBER THEM UP TO 102
9 A LITTLE BIT LATER.
10 A. ALL RIGHT.
11 Q. OKAY.
12 BUT LET'S TAKE THE VERY LAST
13 ONE, WHICH IS 102.
14 DO YOU WANT TO PUT A 102 ON
15 THAT?
16 A. YES.
17 Q. LET'S TAKE A LOOK AT THAT.
18 COULD YOU DISPLAY THAT ONE
19 JUST FOR A SECOND.
20 SO IF THAT'S CHRISTMAS OF '72,
21 THIS -- THIS IS THE TIME THAT YOU'RE
22 SWITCHING BRANDS?
23 A. YES.
24 Q. OKAY. THANK YOU.
25 DO YOU HAPPEN TO KNOW OFFHAND
26 WHAT COMPANY MAKES MARLBORO?
27 A. NO, I DON'T.
28 Q. DO YOU HAPPEN TO KNOW OFFHAND
7912 WHAT COMPANY MAKES BENSON & HEDGES?
1 A. I BELIEVE IT'S
2 BROWN & WILLIAMSON.
3 Q. DO YOU HAPPEN TO KNOW OFFHAND
4 WHAT COMPANY MAKES PALL MALL?
5 A. I THINK IT'S AMERICAN TOBACCO.
6 I'M NOT SURE.
7 Q. DO YOU -- YOU'VE TOLD US HOW
8 MARLBORO TASTED DIFFERENT THAN
9 PALL MALL.
10 A. YES.
11 Q. HOW DID THE BENSON & HEDGES
12 TASTE DIFFERENT THAN MARLBORO?
13 A. WELL, I SMOKED BENSON & HEDGES
14 MENTHOL, AND THEY WERE MENTHOLATED, SO
15 IF YOU'RE FAMILIAR WITH THE TASTE OF
16 MENTHOLATUM, THAT WAS ESSENTIALLY THE
17 TASTE OF A BENSON & HEDGES MENTHOL.
18 AND A MARLBORO HAD NO
19 MENTHOLATUM IN IT, SO IT WAS A DRIER,
20 HARSHER TASTE TO IT -- TASTING
21 CIGARETTE.
22 Q. WAS SOMETHING HAPPENING WITH
23 YOUR THROAT THAT LED YOU TO THINK THAT
24 YOU SHOULD HAVE MENTHOL?
25 A. NO, NOT REALLY. UM,
26 NOT -- NO, NOT AT ALL.
27 Q. HAD ANY PEOPLE YOU KNEW TOLD
7913 YOU, SAID, HEY, YOU KNOW WHAT, I
1 SMOKED -- I SMOKE MENTHOL CIGARETTES
2 AND YOU REALLY SHOULD TRY THEM,
3 THERE'S REALLY SOMETHING ABOUT THEM?
4 A. NO. NO, NOT AT ALL.
5 Q. OKAY.
6 WAS THERE SOMETHING ABOUT SOME
7 KIND OF AN AD, WHETHER IT WAS FOR
8 BENSON & HEDGES OR SOME OTHER MENTHOL
9 CIGARETTE, THAT WAS SORT OF THE -- THE
10 HOOK THAT GOT YOUR ATTENTION ABOUT
11 TRYING MENTHOL CIGARETTES?
12

13 A. NO. I JUST WANTED TO TRY
14 SOMETHING DIFFERENT. NO PARTICULAR
15 OVERRIDING REASON TO DO IT. I JUST
16 WANTED TO TRY A DIFFERENT CIGARETTE.

17 Q. AT THE TIME YOU SWITCHED
18 CIGARETTES FROM MARLBORO TO
19 BENSON & HEDGES MENTHOL, DID YOU
20 CONTINUE TO SMOKE ABOUT THE SAME
21 NUMBER OF CIGARETTES PER DAY?

22 A. YES.

23 Q. WHAT WAS THAT AMOUNT, PLEASE?

24 A. ABOUT TWO PACKAGES A DAY.

25 Q. HOW LONG DID YOU REMAIN BEING
26 A TWO-PACK-A-DAY SMOKER?

27 A. FOR SEVERAL YEARS.

28 Q. AND DID YOU -- WHEN YOU
7914

1 SAID "SEVERAL," DID YOU MEAN TO BE
2 INDETERMINATE BECAUSE YOU REALLY
3 DIDN'T KNOW IT?

4 A. THAT'S EXACTLY WHAT I MEANT IT
5 TO BE.

6 Q. AND AFTER SEVERAL YEARS,
7 WHATEVER THAT AMOUNT TURNS OUT TO BE,
8 DID THE AMOUNT GO UP OR DOWN?

9 A. IT WENT UP SOMETHING LESS THAN
10 THREE AND SOMETHING MORE THAN
11 TWO AND A HALF.

12 Q. AND A YEAR AND A HALF AGO,
13 WERE YOU SMOKING BETWEEN
14 TWO AND A HALF TO THREE PACKS A DAY?

15 A. YES, I WAS.

16 Q. ROUGHLY, HOW LONG HAD YOU BEEN
17 SMOKING BETWEEN TWO AND A HALF AND
18 THREE PACKS DAY?

19 A. SEVEN YEARS, EIGHT YEARS.

20 Q. WAS THE INCREASE FROM TWO UP
21 TO THE POINT WHERE IT WAS BETWEEN TWO
22 AND A HALF AND THREE, A GRADUAL, OVER
23 A PERIOD OF TIME, INCREASE?

24 A. YES, IT WAS.

25 Q. WHY MORE?

26 A. I JUST WANTED MORE.

27 Q. AND IF I ASKED YOU TO DESCRIBE
28 THE WANT, WOULD YOU BE ABLE TO DO IT
7915

1 ANY DIFFERENTLY THAN BEFORE, WHERE IT
2 WAS THE URGE OR THE CRAVING, WORDS
3 LIKE THAT?

4 A. IT WOULD BE -- IT WOULD BE
5 EXACTLY THE SAME EXPLANATION.

6 Q. DID YOU EVER TRY TO STOP
7 SMOKING?

8 A. YES.

9 Q. HAVE YOU TRIED TO STOP SMOKING
10 MORE THAN ONE TIME?

11 A. YES.

12 Q. WHEN WAS THE FIRST TIME YOU
13 EVER TRIED TO STOP SMOKING?

14 A. IN 1972.

15 Q. WHY?

16 A. I SCARED MYSELF. I HAD GOT UP
17 IN THE MORNING AND I HAD AN UPSET

18 STOMACH. AND THE NIGHT BEFORE, I HAD
19 A RATHER RICH TOMATOY-PASTY MEAL, AND
20 I VOMITED. AND I THOUGHT THAT I WAS
21 VOMITING BLOOD. AND IT SCARED ME, AND
22 I THOUGHT IT WAS GOOD TO THINK ABOUT
23 JUST GETTING MYSELF SQUARED AWAY, AND
24 I TRIED TO STOP SMOKING.

25 Q. WELL, WHY DID YOU THINK
26 STOPPING SMOKING HAD ANYTHING TO DO
27 WITH WHAT YOU THOUGHT --
28 THAT WASN'T BLOOD, WAS IT?

7916

1 A. I'M SORRY. I DIDN'T
2 UNDERSTAND -- OR HEAR.

3 Q. THAT MORNING WHEN YOU GOT UP,
4 WAS IT REALLY BLOOD?

5 A. NO. IT WAS MARINARA SAUCE.

6 Q. WHETHER BLOOD OR MARINARA
7 SAUCE, WHAT DID SMOKING HAVE TO DO
8 WITH BLOOD OR MARINARA SAUCE?

9 A. IT DOESN'T HAVE ANYTHING TO DO
10 WITH MARINARA SAUCE AT ALL. BUT I
11 THOUGHT AS LONG AS I WAS THROWING UP
12 WHAT APPEARED TO BE BLOOD TO ME, IT
13 WOULD BE A GOOD IDEA TO STOP SMOKING
14 AND SEE WHAT HAPPENED.

15 Q. DID YOU?

16 A. YES.

17 Q. FOR HOW LONG?

18 A. TWO DAYS.

19 Q. WHAT HAPPENED?

20 A. I STOPPED THROWING UP MARINARA
21 SAUCE.

22 Q. DID YOU FIGURE OUT IT WAS
23 MARINARA SAUCE?

24 A. YES.

25 Q. DID IT TAKE YOU TWO DAYS TO
26 FIGURE THAT OUT?

27 A. NO, BUT I WAS ON A ROLL. I
28 HAD ALREADY QUIT FOR, LIKE, 24 HOURS,

7917

1 AND I THOUGHT I WOULD SEE IF I COULD
2 STRETCH IT OUT TO 48.

3 Q. WHY?

4 A. JUST TO SEE IF I COULD. SEE
5 IF IT WAS POSSIBLE.

6 Q. WAS IT POSSIBLE?

7 A. NO.

8 Q. WHY NOT?

9 A. I KEPT ON HAVING THIS DESIRE
10 TO SMOKE.

11 Q. WELL, BEFORE THE NIGHT OF THE
12 NARMARA --

13 A. MARINARA SAUCE.

14 Q. EXCUSE ME.

15 BEFORE THE NIGHT OF THE
16 MARINARA SAUCE, HAD YOU SAID TO
17 YOURSELF, YOU KNOW WHAT, MAYBE I
18 SHOULD STOP SMOKING?

19 A. NO.

20 Q. WHEN YOU -- AFTER THE MARINARA
21 SAUCE INCIDENT AND YOU DID STOP
22 SMOKING, DID THAT HAPPEN WITHOUT ANY

23 KIND OF A PLAN AT ALL BEFORE THEN?
24 A. I'M HAVING A HARD TIME
25 UNDERSTANDING THE QUESTION.
26 Q. THAT'S BECAUSE IT WAS A BAD
27 QUESTION, MR. RELLER. IT'S LATE IN
28 THE AFTERNOON, AND I ASKED A REALLY
7918
1 BAD QUESTION. I APOLOGIZE TO
2 EVERYONE.
3 THE NIGHT YOU WENT TO BED
4 BEFORE YOU THREW UP THE MARINARA
5 SAUCE, HAD YOU PLANNED OUT ANYTHING
6 ABOUT STOPPING SMOKING?
7 A. NO.
8 Q. AFTER TWO DAYS OF NOT SMOKING,
9 DID THAT HAVE ANY KIND OF AN EFFECT ON
10 YOU THAT YOU COULD TELL US ABOUT?
11 A. OTHER THAN BEING UNCOMFORTABLE
12 AND IRRITABLE AND TESTY AND HAVING A
13 HARD TIME CONCENTRATING, NO.
14 Q. NO, NOT OTHER THAN THAT?
15 A. NO. THAT WAS IT.
16 Q. THOSE ARE THE -- WELL, FOR
17 THOSE PEOPLE WHO ARE GOING TO BE
18 LISTENING TO YOUR TESTIMONY WHO HAVE
19 NEVER SMOKED AND, THEREFORE, HAVE
20 NEVER TRIED TO STOP, I'D LIKE YOU TO
21 EXPLAIN THOSE THINGS A LITTLE BIT
22 MORE.
23 A. I WAS IRRITABLE. I WAS
24 RESTLESS. I WAS DISCONTENT. I
25 THOUGHT ABOUT SMOKING ALL THE TIME OR
26 NOT SMOKING ALL THE TIME. I DID
27 GET -- I WAS EASILY AGITATED, AND I
28 HAD A HARD TIME CONCENTRATING, AND I
7919
1 HAD A HARD TIME REMEMBERING SIMPLE
2 TASKS, AND THAT WAS THE EFFECTS THAT I
3 EXPERIENCED.
4 Q. SO ALL IN ALL, YOU DIDN'T LIKE
5 THEM?
6 A. NO. IT WAS -- IT WAS AN
7 UNCOMFORTABLE WITHDRAWAL.
8 Q. YOU USED THE
9 TERM "WITHDRAWAL." BY THAT TIME, YOU
10 WERE IN A POSITION TO KNOW WHAT A
11 WITHDRAWAL WAS?
12 A. I KNEW WHAT WITHDRAWAL WAS,
13 YES.
14 Q. SO WHEN YOU, AFTER 48 HOURS,
15 LIT UP A CIGARETTE, DID ALL OF THOSE
16 THINGS THAT YOU'VE JUST MENTIONED,
17 MAGICALLY DISAPPEARED?
18 A. IT WENT AWAY. THOSE THINGS
19 ALL WENT AWAY.
20 Q. IMMEDIATELY?
21 A. SIMULTANEOUSLY WITH LIGHTING
22 UP THE CIGARETTE.
23 Q. AND ONE CIGARETTE EQUALS NO
24 MORE DISCOMFORT?
25 A. RIGHT. EXACTLY.
26 Q. NO MORE AGITATION?
27 A. THAT'S CORRECT.

28 Q. NO MORE TESTINESS?
7920
1 A. I'M SORRY. I DIDN'T HEAR.
2 Q. TESTINESS, IRRITABILITY?
3 A. YES, THAT'S CORRECT.
4 Q. OPPRESSIVENESS?
5 A. THAT'S RIGHT.
6 Q. ALL GONE?
7 A. RIGHT.
8 Q. WITH ONE PUFF?
9 A. YES.
10 Q. CAN YOU REMEMBER THE FIRST
11 TIME EVER, ANYWHERE, ANYPLACE IN
12 PUBLIC THAT YOU ENCOUNTERED A "DO NOT
13 SMOKE "AREA?
14 A. YES. IN BEVERLY HILLS
15 IN -- IN THE '80S, EARLY '80S,
16 MID '80S, THEY HAD NO SMOKING AREAS OR
17 TOTAL, COMPLETE NO SMOKING
18 RESTAURANTS.
19 Q. DID YOU USED TO HAVE AN OFFICE
20 IN BEVERLY HILLS?
21 A. YES.
22 Q. DID YOU USED TO FREQUENT SOME
23 OF THE RESTAURANTS IN BEVERLY HILLS?
24 A. YES.
25 Q. WITH SOME REGULARITY?
26 A. YES.
27 Q. WHAT IS IT YOU REMEMBER ABOUT
28 ENCOUNTERING IN A RESTAURANT A DO NOT
7921
1 SMOKE AREA?
2 IS THIS A FOND MEMORY?
3 A. NO, IT WAS A VERY UNPLEASANT
4 MEMORY.
5 Q. WHY?
6 A. I ENJOYED HAVING A CIGARETTE
7 AFTER I ATE OR WHILE I ATE, AND I WAS
8 USED TO AND ACCUSTOMED TO SMOKING IN
9 THOSE RESTAURANTS.
10 Q. AFTER THAT FIRST TIME, DID
11 THIS OCCUR ON OTHER OCCASIONS, ALSO?
12 A. YES.
13 Q. DID YOU BECOME UNWELCOMED IN
14 SOME OF THESE RESTAURANTS?
15 A. NO. MY BUSINESS WAS WELCOME.
16 I ELECTED NOT TO GIVE THEM MY
17 BUSINESS. I CHOSE TO FIND RESTAURANTS
18 WHERE I COULD SMOKE IN THEM. MAYBE
19 RESTAURANTS IN THE HOLLYWOOD AREA,
20 RESTAURANTS IN THE SANTA MONICA AREA,
21 WESTWOOD, BRENTWOOD, IN THE ADJOINING
22 AREAS THAT DIDN'T HAVE THOSE SMOKING
23 RESTRICTIONS.
24 Q. OKAY. DO YOU REMEMBER EARLIER
25 TODAY WE WERE TALKING A COUPLE OF
26 TIMES ABOUT ANYTHING ON AIRPLANES AND
27 SMOKING?
28 A. YES.
7922
1 Q. YOU KNOW YOU CAN'T DO THAT
2 ANYMORE?
3 A. RIGHT.

4 Q. DO YOU KNOW ROUGHLY HOW LONG
5 IT'S BEEN SINCE YOU'VE BEEN ABLE TO DO
6 THAT?

7 A. I CAN REMEMBER SMOKING ON
8 AIRPLANES IN THE '80S IN SEGREGATED OR
9 SMOKING -- SMOKING AREAS. I CAN'T
10 REMEMBER SMOKING ON AIRPLANES IN
11 THE '90S. SO I DON'T KNOW EXACTLY
12 WHEN IT TOOK PLACE, BUT SOMETIME IN
13 THAT -- IN THAT -- IN THAT WINDOW.

14 Q. EARLIER TODAY BEFORE -- WHEN
15 WE WERE ON TAPE 1 AND PROBABLY BEFORE
16 THE FIRST BREAK, YOU MADE A COMMENT
17 THAT YOU REMEMBERED SMOKING ON
18 AIRPLANES, BUT YOU DIDN'T REMEMBER NO
19 SMOKING ZONES ON AIRPLANES OR SPLIT
20 AIRPLANES, AND NOW YOU JUST SAID
21 SOMETHING TOTALLY DIFFERENT.

22 A. SORRY. I MISUNDERSTOOD WHEN
23 YOU ASKED ME THAT FIRST QUESTION.
24 I DO REMEMBER CLEARLY SMOKING
25 AND NONSMOKING AREAS OF AN AIRPLANE.

26 Q. DO YOU REMEMBER WHERE THE
27 NONSMOKING -- EXCUSE ME -- WHERE THE
28 SMOKING AREAS WERE?

7923

1 A. GENERALLY TO THE
2 FRONT -- PARDON ME.
3 THE SMOKING AREAS WERE
4 GENERALLY TO THE BACK OF THE AIRPLANE,
5 THE FURTHERMOST AREAS OF THE TAIL
6 SECTION, AND THE NONSMOKING AREAS WERE
7 GENERALLY TO THE FRONT.

8 Q. WHEN -- WHENEVER IT WAS THAT
9 SMOKING WAS DISALLOWED TOTALLY ON
10 AIRPLANES, DID YOU CHANGE YOUR TRAVEL
11 HABITS AT ALL?

12 A. I TRAVELED -- I TRAVELED LESS
13 BY PLANE.

14 Q. FOR THAT REASON?

15 A. FOR THAT REASON.

16 Q. AT SOME POINT, DID YOU OPEN A
17 BUSINESS IN BEVERLY HILLS AT
18 8447 WILSHIRE BOULEVARD?

19 A. I DID.

20 Q. WHEN WAS THAT?

21 A. IT WAS THE SPRING OF 1983.

22 Q. WHAT I'D LIKE YOU TO DO, IF YOU COULD,
23 BRIEFLY, IS TO TELL US YOUR EMPLOYMENT
24 HISTORY FROM WHERE WE LEFT OFF UP TO
25 WHEN YOU OPENED YOUR OFFICE AT
26 8447 WILSHIRE BOULEVARD.

27 COULD YOU DO THAT?

28 A. DID WE LEAVE OFF AT RAWLINS

7924

1 COMMUNICATIONS?

2 Q. WE DID.

3 A. I LEFT RAWLINS COMMUNICATIONS
4 IN THE SUMMER OF 1973 AND WENT TO WORK
5 FOR A COMPANY CALLED CLARK EQUIPMENT
6 COMPANY. THEY'RE A MANUFACTURER OF
7 FORKLIFT TRUCKS, INDUSTRIAL FORKLIFT
8 TRUCKS. I WORKED FOR CLARK EQUIPMENT

9 COMPANY FOR ABOUT A YEAR AND A HALF.
10 AND A FRIEND OF MINE HAD
11 OPENED UP ANOTHER PRIVATE INTERCONNECT
12 TELEPHONE COMPANY. THE NAME OF THAT
13 COMPANY WAS KEY TELEPHONE COMPANY.
14 AND I WAS EMPLOYED BY THEM AS
15 NATIONAL -- OR, MORE ACCURATELY,
16 BECAUSE THEY WERE A REGIONAL FIRM, A
17 REGIONAL SALES MANAGER.

18 THEY STRUGGLED AND DIDN'T DO
19 WELL, AND I LEFT THEIR EMPLOYMENT AND
20 WENT TO WORK WITH E.F. HUTTON, A
21 NATIONAL STOCK BROKERAGE FIRM. WAS
22 TRAINED BY THEM AND SENT TO NEW YORK,
23 GO TO THE NEW YORK INSTITUTE OF
24 FINANCE, AND THEN TRIED TO PASS THE
25 NEW YORK STOCK EXCHANGE TEST TWICE,
26 AND WASN'T ABLE TO.

27 AND A BOUTIQUE FIRM CALLED
28 BATEMAN, EICHLER, HILL, RICHARDS, A

7925

1 CALIFORNIA FIRM, HIRED ME, AND I TOOK
2 THE TEST AND BECAME A STOCKBROKER FOR
3 BATEMAN, EICHLER, HILL, RICHARDS.

4 Q. HERE IN CALIFORNIA?

5 A. HERE IN SOUTHERN CALIFORNIA.

6 Q. OKAY.

7 A. I WORKED FOR THEM FOR
8 APPROXIMATELY A YEAR AND A HALF AND
9 BECAME INTERESTED IN THE LEASING
10 BUSINESS AND THE FINANCE BUSINESS AND
11 FOUND A -- A -- A MAN WHO SPECIALIZED
12 IN PLACING PEOPLE IN THAT INDUSTRY
13 WITH AN EMPLOYMENT COUNSELOR, AND HE
14 PLACED ME WITH A COMPANY CALLED CIT
15 CORPORATION IN 1977. AND I WORKED FOR
16 CIT CORPORATION IN A TRAINING CAPACITY
17 FROM 1977 TO 1979. HE TAUGHT ME THE
18 GENERALITIES OF THE FINANCE BUSINESS.

19 I LEFT THEM IN '79 AND WENT TO
20 WORK FOR A COMPANY CALLED GENERAL
21 HOSPITAL LEASING, SLASH, MANUFACTURERS
22 INDUSTRIAL LEASING. THEY WERE A
23 LEASING COMPANY THAT SPECIALIZED IN
24 INDUSTRIAL AND MEDICAL -- MEDICAL
25 EQUIPMENT. I WORKED FOR THEM FOR TWO
26 YEARS.

27 AND THEN WENT TO WORK FOR
28 DIVISION OF CONNECTICUT BANK AND

7926

1 TRUST. AND THAT DIVISION WAS IN
2 BOSTON, MASSACHUSETTS. THE NAME OF
3 THE COMPANY WAS GENERAL DISCOUNT
4 CORPORATION. I WORKED FOR THEM FOR
5 TWO YEARS, AND AT THE END OF THAT
6 SIX-YEAR PERIOD, FELT THAT I WAS
7 EXPERIENCED ENOUGH AND KNEW ENOUGH
8 ABOUT THE INDUSTRY TO START MY OWN
9 LEASING ENTITY.

10 AND I STARTED THAT LEASING
11 ENTITY IN MARCH OF 1983 AND OPENED UP
12 THE OFFICES AT 8447 WILSHIRE
13 BOULEVARD.

14 Q. WERE YOU A -- AS IT TURNED
15 OUT, DID YOU BECOME A LONG-TERM TENANT
16 AT 8447 WILSHIRE BOULEVARD?
17 A. I DID.
18 Q. WHEN IS THE LAST TIME YOU WERE
19 A TENANT AT 8447 WILSHIRE?
20 A. APPROXIMATELY DECEMBER OF
21 1998.
22 Q. WHEN WE GO THROUGH THIS IN A
23 BIT, WILL IT TURN OUT THAT YOU WEREN'T
24 THERE EVERY SINGLE INSTANT BETWEEN '83
25 AND '98?
26 A. IT WILL.
27 Q. WHAT WAS THE NAME OF THE
28 COMPANY THAT YOU OPENED UP IN '83 AT
7927
1 8447 WILSHIRE?
2 A. THE NAME OF THE COMPANY WAS
3 FAR WEST VENTURES.
4 Q. WERE YOU THE BOSS?
5 A. I WAS.
6 Q. WERE YOU THE OWNER?
7 A. I WAS.
8 Q. THE SOLE OWNER?
9 A. YES.
10 Q. WHAT WERE THE KINDS OF THINGS
11 THAT FAR WEST VENTURES LEASED, PLEASE?
12 A. LARGE METAL WORKING MACHINERY,
13 MACHINE TOOLS THAT WERE COMPUTER
14 NUMERICALLY CONTROLLED AND OPERATED.
15 LARGE AND SMALL TWO-, FOUR- AND
16 SIX-COLORED PRINTING PRESSES, LIKE
17 HEIDELBERG OR MIEHLE OR ROCKWELL.
18 LARGE AND SMALL, WHAT'S KNOWN IN THE
19 INDUSTRY AS A YELLOW IRON, WHICH IS
20 CONSTRUCTION EQUIPMENT. MORE
21 GENERALLY RECOGNIZED AS CATERPILLAR,
22 JOHN DEERE, THAT TYPE OF CONSTRUCTION
23 EQUIPMENT.
24 A SPECIALTY WAS -- ELECTRONIC
25 CIRCUIT BOARD MANUFACTURERS HAVE
26 EXPENSIVE MACHINERY THAT THEY -- THEY
27 NEED CALLED PICK AND PLACE EQUIPMENT.
28 AND WE LEASED THAT TYPE OF CIRCUIT
7928
1 BOARD MANUFACTURING, PICK AND PLACE
2 EQUIPMENT.
3 WE WERE SPECIALISTS IN ONE WAY
4 AND GENERALISTS IN ANOTHER.
5 THE EQUIPMENT WOULD RANGE FROM
6 PROBABLY A MINIMUM OF 25- TO \$30,000
7 TO A MAXIMUM OF PROBABLY A MILLION AND
8 A HALF.
9 Q. PER PIECE?
10 A. PER PIECE.
11 Q. DID YOU SOMETIMES LEASE
12 MEDICAL EQUIPMENT?
13 A. AS A GENERAL RULE, NO.
14 Q. NOW, HOW BIG DID YOUR
15 OPERATION ULTIMATELY GET, AS FAR AS
16 THE NUMBER OF EMPLOYEES?
17 A. WE HAD APPROXIMATELY 40
18 EMPLOYEES, ROUGHLY, AT ITS

19 LARGEST -- AT ITS LARGEST POINT. WE
20 HAD A MAIN OFFICE IN BEVERLY HILLS,
21 AND WE HAD MARKETING OFFICES IN
22 SAN DIEGO, SAN FRANCISCO, AND PHOENIX.
23 AND, OF COURSE, WE HAD MARKETING
24 OFFICES IN LOS ANGELES.

25 Q. SO THAT MEANS SOMETHING TO
26 YOU, BUT NOT TO US.

27 HOW MANY PEOPLE ARE IN A
28 MARKETING OFFICE?

7929

1 A. WELL, SOME OF THE SALES
2 OFFICES HAD ONLY ONE EMPLOYEE AND SOME
3 OF THE SALES OFFICES HAD FOUR OR FIVE
4 EMPLOYEES.

5 Q. SO, TYPICALLY, OVER AT
6 8447 WILSHIRE BOULEVARD IN
7 BEVERLY HILLS, HOW MANY EMPLOYEES
8 WOULD BE UNDER THE ROOF THERE?

9 A. WELL, WE ALSO HAD AN INSURANCE
10 AGENCY, SO IT WAS COMBINED. SO
11 BETWEEN THE INSURANCE AGENCY AND THE
12 LEASING COMPANY, WE COULD HAVE HAD AS
13 MANY AS 40 EMPLOYEES IN THAT ONE
14 OFFICE.

15 Q. THANKS.
16 NOW, WHEN YOU SAY "WE" HAD AN
17 INSURANCE AGENCY, WHAT DO YOU MEAN BY
18 THAT?

19 A. I HAD MEMBERS OF THE FAMILY
20 WORKING FOR ME. MY WIFE WAS AN
21 OFFICER OF THE COMPANY. AND WHEN I
22 SAY "WE," I'M REFERRING TO MEMBERS OF
23 THE FAMILY AND MYSELF.

24 Q. WOULD OTHER MEMBERS OF THE
25 FAMILY BESIDES YOUR WIFE WORK?

26 A. I HAD TWO STEPSONS THAT WERE
27 BOTH EMPLOYEES OF THE COMPANY.

28 Q. YOUR WIFE'S SONS?

7930

1 A. YES.

2 Q. DID YOU RAISE THEM?

3 A. I DID.

4 Q. OKAY. SO HOW MUCH SPACE DID
5 YOU LEASE AT 8447 WILSHIRE BOULEVARD
6 WHEN YOU FIRST WENT INTO THAT BUILDING
7 IN 1983?

8 A. PROBABLY 900 TO 1,000 FEET
9 WHEN WE FIRST WENT INTO THE FACILITY.

10 Q. WHEN YOU WERE IN THAT
11 FACILITY, WHAT FLOOR WERE YOU ON?

12 A. WE WERE ON WHAT'S CALLED THE
13 FIRST FLOOR, BUT IN REALITY, IT WAS
14 THE SECOND FLOOR OF THE BUILDING. THE
15 FIRST FLOOR WAS AN UPPER-LEVEL PARKING
16 STRUCTURE.

17 Q. WHILE YOU WERE IN THE
18 BUILDING, DID YOU EVER CHANGE FLOORS?

19 A. NO.

20 Q. WHILE YOU WERE IN THE
21 BUILDING, DID YOU EXPAND?

22 A. YES.

23 Q. WHEN YOU EXPANDED TO THE

24 LARGEST, HOW MUCH SPACE DID YOU LEASE
25 THERE?
26 A. I NEVER REALLY MEASURED IT,
27 BUT 6- TO 7,000 SQUARE FEET.
28 Q. WHEN WAS THE TIME BETWEEN '83
7931
1 AND '98 WHEN YOU WEREN'T IN THAT
2 BUILDING?
3 A. WE LEFT THE BUILDING IN
4 SEPTEMBER OF 1992 AND REENTERED THE
5 BUILDING IN -- OH, GEE. I'M NOT
6 EXACTLY CERTAIN, BUT IT WOULD PROBABLY
7 BE IN THE AREA OF SEPTEMBER OR OCTOBER
8 OF 1995.
9 Q. WHY WERE YOU GONE FOR THOSE
10 APPROXIMATE TWO TO THREE YEARS?
11 A. WE CLOSED FAR WEST VENTURES.
12 I STARTED A NEW BUSINESS OF A
13 SIMILAR TYPE OF A COMPANY, AND I WAS
14 OPERATING THAT BUSINESS OUT OF MY
15 RESIDENCE -- MY THEN RESIDENCE -- WITH
16 EMPLOYEES IN THAT RESIDENCE, UNTIL WE
17 GOT LARGE ENOUGH AGAIN SO WE NEEDED TO
18 GET BACK INTO SOME OFFICE SPACE.
19 Q. THE SECOND COMPANY THAT YOU
20 SAID YOU OPENED --
21 A. RIGHT.
22
23 THE COURT: IS THERE A PROBLEM?
24 MR. GARDNER: EITHER WITH ME OR SOMETHING ELSE. I
25 JUST NEED TO CHECK ONE THING.
26 THE COURT: FINE, FOLKS. WHILE HE'S DOING THAT . . .
27
28 (SHORT PAUSE.)
7932
1 THE COURT: OKAY. GOT IT WORKED OUT?
2 MR. GARDNER: YEP.
3
4 A. YES. THAT COMPANY'S CALLED
5 TCB FINANCIAL.
6 Q. AFTER YOU OPERATED OUT OF YOUR
7 HOUSE FOR WHILE, DID YOU FIND OFFICE
8 SPACE?
9 A. YES. AT 8447 WILSHIRE.
10 Q. THE SECOND FLOOR?
11 A. AGAIN, THE FIRST FLOOR, THE
12 SAME -- ESSENTIALLY, THE SAME SUITE.
13 THE OFFICES -- THE OFFICE MANAGEMENT
14 HAD NOT BEEN ABLE TO RELEASE THAT
15 SPACE, AND SO IT WAS ALL SITTING THERE
16 VACANT. AND I TOOK A SMALL PORTION OF
17 IT TO START -- TO GO IN AND START THE
18 COMPANY UP AND RUNNING IN THERE.
19 Q. JUST LIKE YOU NEVER LEFT, HUH?
20 A. KIND OF, YEAH.
21 Q. DID YOU TAKE THE SAME OFFICE?
22 A. YES.
23 Q. WHEN YOU MOVED IN AT
24 8447 WILSHIRE BOULEVARD IN 1983, DID
25 YOU SMOKE IN THAT BUILDING?
26 A. I'M SORRY?
27 Q. COULD YOU SMOKE IN THAT
28 BUILDING?

7933

1 A. YES.
2 Q. DID YOU SMOKE IN THAT
3 BUILDING?
4 A. YES.
5 Q. DID YOUR EMPLOYEES SMOKE IN
6 THAT BUILDING?
7 A. YES.
8 Q. SOMETIME DURING YOUR TENURE AT
9 8447 WILSHIRE BOULEVARD, WERE THERE
10 RESTRICTIONS PUT ON SMOKING IN PUBLIC
11 OFFICE BUILDINGS?
12 A. YES.
13 Q. I DON'T WANT YOU GUESSING, BUT
14 IF YOU COULD GIVE ME A DATE, THAT
15 WOULD BE NICE. IF YOU CAN'T, DON'T.
16 A. I DON'T REMEMBER. I WOULD BE
17 GUESSING.
18 Q. WHEN THE RESTRICTIONS CAME
19 INTO PLAY, DID YOU HAVE REMODELING
20 DONE IN THE OFFICE ITSELF IN ORDER TO
21 ACCOMMODATE AT LEAST SOME OF YOUR
22 EMPLOYEES' DESIRE TO SMOKE?
23 A. YES.
24 Q. TELL US ABOUT THAT, PLEASE.
25 A. WE HAD A WOMAN THAT HAD BEEN
26 WITH US FOR A LONG TIME. SHE IS
27 DECEASED AT THIS POINT. SHE WAS A
28 LONG-TIME SMOKER. AND SHE WAS A VERY

7934

1 VALUABLE EMPLOYEE. AND WE WANTED TO
2 KEEP HER, SO WE TOOK A CORNER OF THE
3 BUILDING THAT WOULD BE THE -- THE
4 CORNER THAT WOULD BE THE NORTHEAST
5 CORNER, AND WE ENCLOSED IT IN GLASS
6 AND THEN GOT THE BUILDING TO OPEN
7 UP -- ACTUALLY, WE WERE ABLE TO FIND A
8 WAY TO SLIDE ONE OF THOSE GREAT BIG
9 MASSIVE WINDOWS OPEN SO THAT THERE
10 WOULD BE JUST AIR, AND THAT LET HER
11 SMOKE IN THAT OFFICE WITHOUT BOTHERING
12 ANY OF THE EMPLOYEES.
13 Q. WHAT ABOUT YOU, MR. RELLER,
14 DID YOU SMOKE IN THAT OFFICE WHEN YOU
15 WEREN'T SUPPOSED TO BE SMOKING IN THAT
16 OFFICE?
17 A. I SMOKED IN THE OFFICE WHEN I
18 WASN'T SUPPOSED TO BE SMOKING IN IT.
19 Q. EXPLAIN THAT TO US, PLEASE.
20 A. I SMOKED IN THE OFFICE WHEN I
21 WASN'T SUPPOSED TO BE SMOKING IN THE
22 OFFICE. I JUST HAD MY OFFICE. I HAD
23 THE CORNER OFFICE THAT WOULD BE THE
24 SOUTHEAST CORNER OF THE BUILDING, AND
25 IT HAD EXHAUST CAPABILITY WITHIN THE
26 OFFICE AND AIR-CONDITIONING VENTS, AND
27 I JUST WOULD CLOSE THE DOOR AND SMOKE
28 IN MY OFFICE. I SMOKED IN THE OFFICE.

7935

1 Q. WHY?
2 A. WELL, BECAUSE IT -- I DID. I
3 JUST -- IT WAS MY OFFICE. I SMOKED IN
4 IT.

5 Q. WHY DIDN'T YOU GO OUTSIDE FOR
6 A SMOKE?
7 A. I WAS -- BECAUSE I WAS
8 WORKING.
9 Q. HOW LONG DID YOU DO THAT FOR?
10 A. ALL THE TIME WE WERE THERE,
11 UNTIL 1992.
12 Q. SO IF WE FIND OUT DURING THIS
13 TRIAL EXACTLY WHEN IT BECAME A NO-NO
14 TO SMOKE IN OFFICE BUILDINGS, IF WE
15 MEASURE FROM THERE TO 1992, YOU'LL
16 KNOW HOW LONG YOU WERE SMOKING?
17 A. EXACTLY.
18 Q. IN YOUR OWN OFFICE?
19 A. EXACTLY.
20 Q. DID THAT LADY EMPLOYEE WHO YOU
21 REMODELED THE OFFICE FOR, DID SHE STAY
22 THERE UNTIL 1992, ALSO?
23 A. YES, SHE DID.
24 Q. SMOKING?
25 A. YES.
26 Q. WHEN YOU CAME BACK TO THE
27 BUILDING IN 1995, DID SHE COME BACK?
28 A. NO, SHE DID NOT.
7936
1 Q. WHEN YOU CAME BACK TO THE
2 BUILDING IN 1995, DID YOU SMOKE IN
3 THAT OFFICE?
4 A. NO, I DID NOT.
5 Q. WHY NOT?
6 A. UM, IT'S A DIFFERENT SETUP
7 ENTIRELY. I DID NOT REOCCUPY THE
8 OFFICES THAT I -- FOR MY OWN PERSONAL
9 OFFICES, THE SAME CONFIGURATION OF
10 OFFICES THAT I HAD HAD BEFORE. I TOOK
11 A SMALLER SPACE WITHIN THE
12 BUILDING -- WITHIN THAT OFFICE SUITE.
13 THERE WEREN'T THE SAME EXHAUST
14 FACILITIES AVAILABLE IN THE OTHER
15 OFFICES AS THERE WERE IN THE OFFICE I
16 HAD OCCUPIED.
17 THERE WAS A GREAT DEAL MORE
18 SOCIAL PRESSURE AND MORE A SOCIAL
19 POLICING OF THE OFFICES WHEN I MOVED
20 BACK INTO THE BUILDING THAN THERE WAS
21 BEFORE, AND I JUST WENT DOWNSTAIRS AND
22 SMOKED DURING THAT TIME. I DID NOT
23 SMOKE IN THE OFFICE DURING THAT TIME.
24 Q. OKAY. IN THE FIRST PHASE,
25 WERE YOU ABLE TO BASICALLY SHUT
26 YOURSELF OFF IN YOUR OWN OFFICE TO
27 SMOKE?
28 A. YES.
7937
1 Q. AND THE SECOND PHASE, THEN, IT
2 WASN'T POSSIBLE?
3 A. THAT'S CORRECT.
4 Q. HOW OFTEN DID YOU GO
5 DOWNSTAIRS TO SMOKE CIGARETTES --
6 A. A LOT.
7 Q. -- IN 1995?
8 A. A LOT. A LOT.
9 Q. WERE YOU ABLE TO WORK WHILE

10 YOU WERE DOWNSTAIRS SMOKING
11 CIGARETTES?
12 A. NOT AT ALL.
13 Q. DID YOU EVEN BOTHER TRYING TO
14 BRING WORK WITH YOU?
15 A. NO, I DID NOT.
16 Q. DIDN'T THAT CREATE AN AWFUL
17 LOT OF WASTED TIME WITH YOUR BUSINESS?
18 A. IT DID.
19 Q. IT COST YOU MONEY?
20 A. IT DID.
21 Q. WERE YOU AWARE OF THAT?
22 A. CERTAINLY.
23 Q. DID YOU TRY TO DO SOMETHING
24 ABOUT IT?
25 A. DID I TRY TO QUIT SMOKING?
26 Q. YES.
27 A. YES.
28 Q. EVER HEARD OF ASBESTOS?
7938
1 A. YES.
2 Q. HAVE YOU EVER HEARD OF
3 AS- -- HAVE YOU EVER HEARD OF A -- A
4 BREAK?
5 A. YES.
6 Q. HI, MR. RELLER.
7 A. HI.
8 Q. DID YOU KNOW THOSE NAMES THAT
9 WERE JUST RECITED?
10 A. THEY SOUNDED FAMILIAR.
11 Q. HOW DO YOU KNOW THOSE NAMES,
12 PLEASE?
13 A. I BELIEVE THAT THEY'RE THE
14 OWNERS OR THE MANAGEMENT OF THE
15 8447 WILSHIRE BOULEVARD OFFICE
16 BUILDING.
17 Q. TO THE BEST OF YOUR KNOWLEDGE,
18 HAVE YOU EVER MET THEM?
19 A. I BELIEVE I'VE MET
20 MR. DAMAVANDI. AGAIN, I'M NOT CERTAIN
21 I'M PRONOUNCING HIS NAME PROPERLY.
22 I'M NOT 100 PERCENT CERTAIN. I THINK
23 I HAVE, BUT I'M NOT CERTAIN.
24 Q. OKAY.
25 YESTERDAY, WHEN WE ENDED THE
26 DEPOSITION, I HAVE A FEELING ONE OF
27 THE LAST QUESTIONS WENT SOMETHING LIKE
28 THIS: DO YOU KNOW WHAT ASBESTOS IS?
7939
1 A. I'M SORRY. I DIDN'T HEAR YOU.
2 Q. DO YOU KNOW WHAT ASBESTOS IS?
3 A. I THINK SO, YES.
4 Q. WHAT DO YOU THINK IT IS?
5 A. AN INSULATION PRODUCT THAT'S
6 USED IN A NUMBER OF DIFFERENT WAYS TO
7 ISOLATE HEAT OR COLD.
8 Q. WHILE YOU WERE A TENANT AT
9 8447 WILSHIRE BOULEVARD, DID THE
10 BUILDING MANAGEMENT GIVE YOU, AS A
11 TENANT, NOTIFICATION ABOUT ANYTHING
12 HAVING TO DO WITH ASBESTOS?
13 A. YES, THEY DID.
14 VOICE: OBJECTION.

15 Q. ON MORE THAN ONE OCCASION?
16 A. YES.
17 Q. NOW, APPROXIMATELY WHEN WAS
18 THE FIRST TIME THAT ANYTHING WAS EVER
19 MENTIONED, EITHER ORALLY OR IN
20 WRITING, BY ANYONE ASSOCIATED WITH THE
21 MANAGEMENT OF THE 8447 WILSHIRE
22 BOULEVARD BUILDING IN REGARD TO
23 ASBESTOS?
24 A. LATE '84 OR EARLY '85.
25 Q. IN WHAT FORM WAS THAT
26 NOTIFICATION?
27 A. ORIGINALLY, I NOTICED SOME
28 MONITORING EQUIPMENT ON THE FLOOR THAT
7940
1 WE OCCUPIED IN A STAIRWELL, AND I WENT
2 UP TO THE BUILDING MANAGER AND ASKED
3 HIM WHAT THAT MONITORING EQUIPMENT WAS
4 AND WHAT IT WAS FOR. AND HE TOLD ME
5 THAT IT WAS TO MEASURE TO DETERMINE
6 WHETHER OR NOT THERE WAS ASBESTOS
7 LEVELS IN THE AIR IN THE BUILDING.
8 Q. WHO WAS THAT PERSON?
9 A. RON DAVIDOVITZ.
10 Q. WHEN YOU MOVED INTO THE
11 BUILDING, WAS RON DAVIDOVITZ THE
12 MANAGER?
13 A. HE WAS.
14 Q. HAS THERE BEEN ANY TIME WHEN
15 YOU WERE A TENANT IN THE BUILDING WHEN
16 HE WAS NOT THE BUILDING MANAGER?
17 A. YES.
18 Q. WHEN?
19 A. WHEN I OCCUPIED THAT BUILDING
20 THE SECOND TIME, DURING MY TIME OF
21 OCCUPANCY, THE BUILDING WAS SOLD.
22 WHEN THE BUILDING WAS SOLD,
23 RON DAVIDOVITZ NO LONGER WAS THE
24 BUILDING MANAGER.
25 Q. THANK YOU.
26 WAS HIS EXPLANATION AS TO THE
27 MONITORING EQUIPMENT SATISFACTORY TO
28 YOU?
7941
1 A. YES.
2 Q. DID YOU SEEK ANY OTHER
3 INFORMATION AT THAT TIME?
4 A. NO.
5 Q. WHEN IS THE NEXT TIME THAT,
6 EITHER THROUGH WORDS OR SIGNS OR DEEDS
7 OR WRITINGS, THE MANAGEMENT AT
8 8447 WILSHIRE BOULEVARD BROUGHT THE
9 SUBJECT OF ASBESTOS TO YOUR ATTENTION?
10 A. AFTER THAT CONVERSATION AND
11 AFTER THE TEST EQUIPMENT WAS REMOVED
12 FROM THE BUILDING, A NOTICE CAME DOWN
13 TO OUR OFFICE FROM THE MANAGEMENT
14 OFFICES THAT ASBESTOS HAD BEEN
15 DETECTED IN THE BUILDING AND THAT IF
16 THERE WAS TO BE ALTERING OR ADDITIONS
17 OR REMODELS OR IN ANY WAY TAMPERING
18 WITH THE BUILDING OR ADJUSTING THE
19 BUILDING, THAT THOSE REQUESTS SHOULD

20 BE BROUGHT TO THE MANAGEMENT AND THAT
21 THERE WERE NOT SUFFICIENT LEVELS OF
22 ASBESTOS IN THE BUILDING AT THAT POINT
23 TO CAUSE A HEALTH HAZARD.

24 Q. CAN YOU TELL US, IN ROUND
25 NUMBERS, APPROXIMATELY WHEN THAT WAS
26 IN RELATION TO THE CONVERSATION YOU
27 HAD WITH MR. DAVIDOVITZ, PLEASE?

28 A. I'M NOT CERTAIN.

7942

1 Q. OKAY. WERE THERE ANY OTHER
2 COMMUNICATIONS OR NOTIFICATIONS TO YOU
3 AS A TENANT FROM THE MANAGEMENT AT
4 8447 WILSHIRE BOULEVARD CONCERNING
5 ASBESTOS?

6 A. YES.

7 Q. WHAT WAS THE NEXT NOTICE?

8 A. WHEN I GOT THE NOTICE, I WENT
9 UP TO THE OFFICE OF THE BUILDING AND
10 DISCUSSED IT DIRECTLY WITH RON TO
11 GET --

12 Q. BEFORE YOU GO FURTHER, LET ME
13 INTERRUPT, AND I APOLOGIZE.

14 BEFORE YOU TELL US WHAT THE
15 DISCUSSION WAS, WHY DON'T YOU TELL US
16 WHAT THE NEXT NOTIFICATION WAS.

17 A. THE NEXT NOTIFICATION WAS THAT
18 DECALS WERE PLACED ON THE EXTERIOR OF
19 DOORS, ENTRANCE AND EGRESS DOORS
20 FACING WILSHIRE BOULEVARD. AND I SEEM
21 TO REMEMBER ADDITIONAL NOTICES BEING
22 PUT EITHER AT THE ENTRANCE TO THE
23 ELEVATOR OR IN THE ELEVATOR CABS.

24 Q. WHAT DID THE NOTICES SAY?

25 A. THAT THIS BUILDING WAS -- HAD
26 BEEN FOUND TO CONTAIN ASBESTOS AND
27 THAT ASBESTOS WAS RECOGNIZED TO BE A
28 HEALTH HAZARD BY THE STATE OF

7943

1 CALIFORNIA. AND I'M NOT CERTAIN THAT
2 THAT'S EXACTLY WORD FOR WORD WHAT IT
3 SAID, BUT THAT'S CERTAINLY WHAT IT
4 INTENDED OR WHAT WAS BEING TOLD.

5 Q. OKAY.

6 AND WHEN YOU MENTIONED THE
7 DOOR TO WILSHIRE BOULEVARD, ARE YOU
8 TALKING ABOUT THE PUBLIC ENTRANCE?

9 A. YES.

10 Q. THANKS.

11 SO, NOW, HAVING SEEN THAT, YOU
12 APPROACHED MR. DAVIDOVITZ AGAIN. AND
13 WOULD YOU TELL US THE CONVERSATION
14 BETWEEN THE TWO OF YOU?

15 A. I CERTAINLY WAS THERE TO
16 DISCUSS THE ADDITIONAL WARNINGS THAT
17 WERE BEING PUT UP ON THE BUILDING
18 ITSELF.

19 AGAIN, I EXPRESSED INTEREST
20 AND EXPRESSED MORE INFORMATION,
21 DESIRED MORE INFORMATION FROM HIM
22 ABOUT THE HAZARD, WAS THERE A HAZARD.

23 HE ASSURED ME THAT HE WAS
24 STILL WORKING IN THE BUILDING AND THAT

25 HE DIDN'T SEE ANY HAZARD FOR HIMSELF,
26 AND IF HE THOUGHT THERE WAS A HAZARD,
27 HE CERTAINLY WOULDN'T BE THERE.
28 AND FOR ME -- I'VE KNOWN HIM
7944
1 ENOUGH -- LONG ENOUGH AT THAT TIME,
2 TWO OR THREE YEARS, TO KNOW THAT HE
3 WAS CONCERNED ABOUT HIS HEALTH AND THE
4 HEALTH OF THE TENANTS, AND FOR ME NOT
5 TO, ESSENTIALLY, BE CONCERNED.
6 Q. THANK YOU.
7 BECAUSE OF YOUR LAST ANSWER,
8 IS IT YOUR THOUGHT THAT THESE NOTICES
9 WENT UP TWO TO THREE YEARS AFTER YOU
10 BECAME A TENANT IN THE BUILDING, THE
11 ONES YOU HAVE JUST MENTIONED?
12 A. I DON'T UNDERSTAND THE
13 QUESTION.
14 Q. THE NOTICES THAT YOU JUST
15 MENTIONED ON THE PUBLIC ENTRANCE AND
16 IN THE ELEVATORS, DID THEY APPEAR SOME
17 PLACE IN THE VICINITY OF TWO TO THREE
18 YEARS AFTER YOU HAD OCCUPIED THE
19 BUILDING?
20 A. YES, THEY DID.
21 Q. WHAT WAS THE NEXT
22 COMMUNICATION BETWEEN YOU AS THE
23 TENANT AND THE MANAGEMENT OF
24 8447 WILSHIRE BOULEVARD CONCERNING
25 ASBESTOS, PLEASE?
26 A. WITHIN SIX MONTHS TO A YEAR,
27 IT WAS NECESSARY FOR US, BECAUSE THE
28 BUSINESS WAS GROWING, FOR US TO EXPAND
7945
1 THE SUITE OF OFFICES THAT WE OCCUPIED.
2 AND I APPROACHED THE BUILDING
3 MANAGEMENT, DISCUSSED EXPANSION OF THE
4 SUITE.
5 AND THEY SAID THAT THEY WOULD
6 BE RESPONSIBLE FOR DOING THAT
7 EXPANSION WORK, AND THEY DISCUSSED
8 WITH ME WHAT I WANTED DONE, TO HAVE
9 DONE, WHAT KIND OF SPACE I WANTED TO
10 INCLUDE OR EXPAND INTO. AND THEN THEY
11 BROUGHT THEIR WORKERS IN TO DO THE
12 WORK.
13 Q. NOW, WHEN YOU JUST STATED YOU
14 TALKED WITH BUILDING MANAGEMENT, CAN
15 YOU PUT A NAME?
16 A. RON DAVIDOVITZ.
17 Q. THANK YOU.
18 WHO PROVIDED THE PLANS FOR THE
19 RENOVATION?
20 A. WE DID.
21 Q. ASIDE FROM PROVIDING THE PLANS
22 AND, I GUESS, ULTIMATELY, PAYING SOME
23 MONEY -- WE'LL FIND OUT -- DID YOU DO
24 ANYTHING ELSE, YOU, PERSONALLY, OR
25 YOUR BUSINESS, AS FAR AS THE
26 RENOVATION WAS CONCERNED?
27 A. NO.
28 Q. WERE YOU BILLED FOR THE
7946

1 RENOVIATION?
2 A. IT WAS INCLUDED IN THE RENT
3 FOR THE ADDITIONAL SPACE.
4 Q. EXPLAIN THAT, PLEASE.
5 A. THEY COMPUTED WHAT IT COST
6 THEM TO DO THIS BUILD-OUT, THIS
7 IMPROVEMENT. AND THEN THEY QUOTED US
8 A RATE THAT WOULD ENCOMPASS THE
9 OCCUPANCY AND THE DOLLAR AMOUNT THAT
10 THEY HAD SPENT AND ON SOME KIND OF A
11 PRO RATA BASIS -- I'M NOT CERTAIN OF
12 WHAT THE PRO RATA BASIS WAS -- AND WE
13 JUST PAID AN ADDITIONAL AMOUNT OF
14 RENT.
15 Q. DID MR. DAVIDOVITZ JUST GIVE
16 YOU A FLAT NUMBER THAT YOU AGREED TO
17 THAT WAS GOING TO ACCOMPLISH YOUR
18 BUILD-OUT SPACE?
19 A. YES, HE DID.
20 Q. HOW LONG DID THE RENOVIATION
21 TAKE?
22 A. 60 DAYS.
23 Q. DID YOU CONTINUE TO RUN YOUR
24 BUSINESS ON THE SAME FLOOR WHILE
25 THE -- I'M CALLING IT
26 RENOVIATION -- MAYBE EXPANSION IS A
27 BETTER WORD -- BUT WHILE THIS WORK WAS
28 GOING ON, DID YOU CONTINUE TO DO

7947

1 BUSINESS ON THE SAME FLOOR?
2 A. I DID.
3 Q. DID MR. DAVIDOVITZ ASK YOU TO
4 VACATE THE PREMISES WHILE THIS WAS
5 GOING ON?
6 A. NO, HE DID NOT.
7 Q. DID ANYONE ASK YOU TO VACATE
8 THE PREMISES WHILE THIS WAS GOING ON?
9 A. NO, THEY DID NOT.
10 Q. DURING THE TIME THAT THE
11 RENOVIATION, SLASH, EXPANSION WAS GOING
12 ON, WERE THERE ANY SIGNS OR WARNINGS
13 OR ANYTHING IN WRITING ABOUT ASBESTOS
14 HAVING TO DO WITH THIS WORK?
15 A. NO, THERE WAS NOT.
16 Q. WAS THERE ANYTHING SAID BY
17 ANYONE LINKING ASBESTOS WITH THIS
18 WORK?
19 A. NO, THERE WAS NOT.
20 Q. ALL RIGHT. WERE THERE ANY
21 OTHER OCCASIONS AFTER THE SPACE WAS
22 BUILT OUT FOR YOU TO OCCUPY WHEN THERE
23 WERE COMMUNICATIONS BETWEEN THE
24 BUILDING MANAGEMENT AT 8447 WILSHIRE
25 BOULEVARD AND YOU AS A TENANT
26 CONCERNING ASBESTOS?
27 A. OTHER THAN THE ONES MENTIONED,
28 NO.

7948

1 Q. AFTER YOUR SPACE HAD BEEN
2 BUILT OUT, THEREFORE, THERE WERE
3 NEVER -- NOTHING WAS EVER SAID AGAIN
4 WHILE YOU WERE A TENANT IN THE
5 BUILDING ABOUT ASBESTOS?

6 A. THAT'S CORRECT.
7 Q. AND THERE WERE NO FURTHER
8 SIGNS THAT WERE EVER PUT UP ABOUT
9 ASBESTOS?
10 A. THAT'S CORRECT.
11 Q. WHEN YOU RETURNED TO
12 8447 WILSHIRE BOULEVARD AFTER NOT
13 HAVING BEEN THERE FOR SEVERAL YEARS,
14 WAS MR. DAVIDOVITZ GONE?
15 A. NO. HE WAS STILL THERE.
16 Q. AT ANY TIME DURING YOUR SECOND
17 TENANCY AT 8447 WILSHIRE BOULEVARD,
18 WAS ANYTHING SAID ABOUT ASBESTOS?
19 A. NO, IT WAS NOT.
20 Q. WERE ANY WRITTEN
21 COMMUNICATIONS GIVEN TO YOU ABOUT
22 ASBESTOS?
23 A. NO, THEY WERE NOT.
24 Q. OKAY.
25 NOW, I'M GOING TO CHANGE
26 SUBJECTS, AND WE'RE GOING TO LEAVE
27 ASBESTOS, AND WE ARE GOING TO GO BACK
28 TO TOBACCO.

7949

1 ARE YOU READY TO DO THAT?
2 A. YES, I AM.
3 Q. YOU TOLD US YESTERDAY TOWARD
4 THE BEGINNING OF THE DEPOSITION WHEN
5 YOU STARTED CHEMOTHERAPY.
6 DO YOU RECALL THAT?
7 A. YES, I DO.
8 Q. WHEN WAS IT THAT YOU SHOWED
9 YOUR FIRST SYMPTOMS THAT LED TO THE
10 CHEMOTHERAPY?
11 A. AS FAR AS A DATE?
12 Q. YES.
13 A. APPROXIMATELY NOVEMBER 7TH,
14 8TH, OF THE YEAR 2000.
15 Q. REMIND US WHEN YOU STARTED
16 SMOKING CIGARETTES.
17 A. WHEN I WAS APPROXIMATELY 16,
18 AND I WAS BORN IN '39, SO THAT WOULD
19 HAVE BEEN AROUND 1955 -- '55, '56.
20 Q. I WANT TO TALK TO YOU ABOUT
21 THE 45 YEARS THAT WENT PAST FROM WHERE
22 YOU STARTED SMOKING UP UNTIL THE TIME
23 THAT YOU HAD SOME SYMPTOMS THAT WOUND
24 UP GETTING YOU CHEMOTHERAPY. OKAY?
25 HAVE YOU EVER HEARD THE TERM
26 "SMOKER'S COUGH"?
27 HAVE YOU EVER HEARD ANYONE USE
28 THAT TERM?

7950

1 A. YES.
2 Q. DID YOU EVER HAVE A SMOKER'S
3 COUGH?
4 A. AT ABOUT THAT TIME I
5 MENTIONED, I STARTED TO DEVELOP A
6 SMOKER'S COUGH.
7 Q. BEFORE THAT, IN THE 45 YEARS
8 THAT WENT BY BETWEEN WHEN YOU STARTED
9 SMOKING UP UNTIL NOVEMBER OF 2000, DID
10 YOU EVER HAVE A SMOKER'S COUGH?

11 A. NO, I DID NOT.
12 Q. HAVE YOU HEARD THE TERM
13 "BRONCHITIS"?
14 A. YES, I HAVE.
15 Q. IN THE 45 YEARS THAT WENT BY
16 BETWEEN WHEN YOU STARTED SMOKING AND
17 UP UNTIL NOVEMBER OF 2000, DID YOU
18 EVER HAVE BRONCHITIS?
19 A. NO, I DID NOT.
20 Q. WHY IS IT THAT YOU WENT -- I
21 FORGET THE EXACT NUMBER OF YEARS, BUT
22 A VERY, VERY, VERY LONG TIME WITHOUT
23 EVER HAVING SEEN A DOCTOR, EVEN ONCE?
24 A. I WASN'T -- I WASN'T SICK.
25 Q. IF MY MEMORY FROM YESTERDAY'S
26 RIGHT, FROM THE TIME OF A DRAFT
27 PHYSICAL, WHEN YOU WERE 18, UP UNTIL
28 THE TIME IN NOVEMBER OF 2000 WHEN YOU
7951
1 HAD SOME PHYSICAL PROBLEMS LEADING TO
2 THE CHEMOTHERAPY, YOU SAW A DOCTOR A
3 TOTAL OF ONE TIME FOLLOWING WHAT
4 TURNED OUT TO BE AN ANXIETY ATTACK
5 WHICH YOU THOUGHT WAS A HEART ATTACK?
6 A. THAT'S CORRECT.
7 Q. SO THAT'S ONE TIME IN
8 SOMETHING LIKE 43 YEARS?
9 A. THAT'S CORRECT.
10 Q. IN THE FAMILY IN WHICH YOU
11 GREW UP IN MINNESOTA, I'D LIKE YOU TO
12 TELL US A LITTLE BIT, GENERALLY, ABOUT
13 THE FAMILY'S HEALTH.
14 CAN YOU DO THAT?
15 A. YES.
16 THE FAMILY ENJOYED GOOD
17 HEALTH. I CAN'T REMEMBER ANY MEMBER
18 OF THE FAMILY GOING TO A HOSPITAL,
19 OTHER THAN MY GRANDFATHER, MY PATERNAL
20 GRANDFATHER, WHO WENT TO THE HOSPITAL
21 THE FIRST TIME I HAD KNOWN HIM TO GO,
22 AND HE PASSED AWAY IN THE HOSPITAL.
23 THE FAMILY WAS VERY FORTUNATE AND HAD
24 NO NEED FOR DOCTORS OR FOR HOSPITALS
25 BECAUSE OF ILLNESS.
26 Q. AS A KID GROWING UP IN YOUR
27 FAMILY, WERE NOT ONLY HOSPITALS AN
28 EXTREME RARITY, WERE DOCTORS AN
7952
1 EXTREME RARITY?
2 A. YES, THEY WERE.
3 Q. I'D LIKE YOU TO GIVE US AN
4 IDEA ABOUT THE LONGEVITY IN YOUR
5 FAMILY. TELL US ABOUT A COUPLE OF
6 PEOPLE WHO LIVED REALLY LONG, PLEASE.
7 A. MY PATERNAL GRANDMOTHER LIVED
8 TO 102.
9 MY MATERNAL GRANDMOTHER LIVED
10 TO 96.
11 Q. LET ME STOP YOU RIGHT THERE,
12 IF I COULD.
13 YOUR TWO GRANDMOTHERS -- TWO
14 OF YOUR GRANDMOTHERS LIVED TO BE 102
15 AND 96, RESPECTIVELY?

16 A. THAT'S CORRECT.
17 Q. APPROXIMATELY WHEN DID THEY
18 DIE?
19 A. MY PATERNAL GRANDMOTHER DIED
20 IN 1995 OR 1996.
21 MY MATERNAL GRANDMOTHER DIED
22 IN '85 OR '86, OR MAYBE '87.
23 Q. SO WHEN YOUR MATERNAL
24 GRANDMOTHER DIED AT THE AGE OF 96,
25 THAT WAS ALREADY 15 YEARS IN THE PAST?
26 A. THAT'S CORRECT.
27 Q. ALL RIGHT. THANK YOU.
28 I INTERRUPTED YOU. IF YOU COULD JUST

7953

1 GIVE ME A COUPLE OF OTHER -- OR GIVE
2 US SOME MORE EXAMPLES OF LONGEVITY IN
3 YOUR FAMILY, PLEASE.
4 A. MY MOTHER IS STILL ALIVE.
5 SHE'S IN HER EARLY 90'S. I'M NOT
6 QUITE CERTAIN. SHE DISGUISES HER AGE
7 WELL.
8 MY FATHER DIED IN 1998. HE
9 WAS 88.
10 MY GRANDFATHER DIED -- MY
11 MATERNAL GRANDFATHER DIED AT AGE 92,
12 AND I DON'T, UNFORTUNATELY, REMEMBER
13 WHEN THAT WAS EXACTLY, BUT IN THE
14 EARLY '80'S.
15 TO THE BEST OF MY KNOWLEDGE,
16 MY FATHER WAS NEVER IN A HOSPITAL FOR
17 ANY REASON AT ALL, OTHER THAN AT THE
18 POINT IN TIME HE BECAME ILL ENOUGH SO
19 THAT -- HE WAS ON VACATION IN NORTH
20 CAROLINA. HE BECAME SICK, AND WE TOOK
21 HIM TO THE HOSPITAL AND HE JUST DIDN'T
22 LEAVE THE HOSPITAL.
23 MY MOTHER'S BEEN IN THE
24 HOSPITAL ONE TIME, OTHER THAN FOR THE
25 THREE CHILDREN THAT SHE BROUGHT INTO
26 THIS WORLD, AND SHE HAD A KIDNEY
27 OPERATION IN THE EARLY '70S, '74
28 OR '75.

7954

1 Q. WELL, I THOUGHT FOR A SECOND
2 YOU WERE GOING TO TELL US THAT ALL
3 THREE OF THE KIDS WERE BORN OUT IN THE
4 FIELDS --
5 A. NO.
6 Q. -- AND YOUR MOTHER JUST KEPT
7 WORKING THROUGH THE DAY.
8 A. NO.
9 Q. ANYWAY, THE FACT -- HERE'S
10 WHERE I'M GOING WITH THIS: THE FACT
11 THAT YOU NEVER SAW A DOCTOR, MAYBE ONE
12 TIME IN 43 YEARS, WAS THAT IN KEEPING
13 WITH YOUR UPBRINGING?
14 A. YES, IT WAS.
15 Q. WHAT'S THE WORST ILLNESS THAT
16 YOU CAN REMEMBER HAVING DURING THOSE
17 43 YEARS, PLEASE?
18 PUTTING ASIDE WHAT YOU THOUGHT
19 TO BE THE ANXIETY -- I'M SORRY -- THE
20 HEART ATTACK, WHICH TURNED OUT TO BE

21 ANXIETY.
22 A. I THINK IT WAS FOOD POISONING.
23 I GOT INTO SOME BAD SEAFOOD IN DENVER.
24 I FLEW BACK TO LOS ANGELES AND GOT
25 SICK.
26 Q. OKAY. DID YOU GET STUFF LIKE
27 COLDS?
28 A. YES.
7955
1 Q. DID YOU TAKE CARE OF THEM
2 YOURSELF?
3 A. YES.
4 Q. WHEN YOU FIRST HAD SYMPTOMS IN
5 NOVEMBER OF 2000, WHAT WERE THEY?
6 A. I STARTED TO HAVE A SEVERE
7 COUGH. AND I STARTED TO REALIZE I WAS
8 HAVING BREATHING DIFFICULTIES CLIMBING
9 STAIRS. AND I HAD SOME PRETTY STRONG
10 SENSATIONS OF PAIN IN MY BACK
11 AND -- AND IN MY UPPER SHOULDERS.
12
13 THE COURT: OKAY. FOLKS, WE'RE GOING TO TAKE A
14 BREAK.
15 YOU'RE ADMONISHED NOT TO CONVERSE AMONG
16 YOURSELVES OR WITH ANYONE ELSE ON ANY SUBJECT CONNECTED WITH
17 THIS TRIAL OR TO FORM OR EXPRESS ANY OPINION THEREON UNTIL
18 THE CAUSE IS FINALLY SUBMITTED TO YOU.
19 IT'S 1:46. I GOOFED BY ONE MINUTE, SO WE'LL
20 SEE YOU AT 2:01.
21
22 (RECESS.)
23
24 THE COURT: OKAY. BACK IN THE MATTER OF RELLER
25 VERSUS PHILIP MORRIS, BC 261796.
26 THE RECORD SHOULD REFLECT ALL TWELVE JURORS AND
27 FOUR ALTERNATES ARE PRESENT.
28 ALL COUNSEL PREVIOUSLY STATED ARE PRESENT.
7956
1 DR. LEWIS IS PRESENT.
2 I'M TOLD THAT, JUST SO THAT YOU KNOW WHERE
3 WE'RE GOING, THERE'S ABOUT TWO MORE HOURS OF DIRECT TESTIMONY
4 OF MR. RELLER, AND THEN I'M TOLD THAT PROBABLY MOST OF THE
5 DAY TOMORROW WILL BE THE CROSS OF MR. RELLER. JUST AS WE'VE
6 BEEN DOING. JUST SO YOU KNOW WHERE WE'RE GOING.
7 AND WITH THAT, THE CLOCK IS TICKING.
8
9 A. THAT IT WOULD PASS.
10 Q. HOW LONG DID YOU HAVE THOSE
11 SYMPTOMS BEFORE THEY EITHER GOT WORSE
12 OR CHANGED TO SOMETHING ELSE OR BEFORE
13 YOU GOT TREATMENT, WHICHEVER CAME
14 FIRST?
15 A. ABOUT SEVEN DAYS.
16 Q. DURING THOSE SEVEN DAYS, DID
17 YOU CONTINUE TO GO TO WORK?
18 A. NO, I DID NOT.
19
20 THE COURT: WOULD YOU TURN IT UP, PLEASE.
21
22 Q. WERE YOU BEDRIDDEN?
23 A. IT WAS THE WEEKEND, AND I
24 DECIDED, THEN, TO TAKE AN EXTRA DAY
25 OFF ON MONDAY. AND TUESDAY, I ENDED

26 UP IN THE HOSPITAL.
27 Q. SO DID YOUR FIRST SYMPTOMS
28 APPEAR -- MAYBE I'M NOT LISTENING TO
7957
1 THIS CORRECTLY -- JUST BEFORE THE
2 WEEKEND?
3 A. YES, THAT.
4 Q. DID YOU STAY HOME IN BED OVER
5 THE WEEKEND?
6 A. I STAYED HOME. I WAS NOT IN
7 BED.
8 Q. WAS STAYING HOME FROM WORK ON
9 A MONDAY A BIG, BIG DEAL, GIVEN YOUR
10 BACKGROUND YOU TOLD US ABOUT?
11 A. YES.
12 Q. WHAT -- WHAT HAPPENED THAT LED
13 YOU TO GO TO THE HOSPITAL ON TUESDAY?
14 SIMPLY THE FACT THAT YOU
15 HADN'T GOTTEN BETTER, OR DID SOMETHING
16 ELSE OCCUR?
17 A. ACCOMPANIED MY MOTHER-IN-LAW
18 AND MY WIFE ON THAT TUESDAY TO
19 HER -- MY MOTHER-IN-LAW'S PHYSICIAN.
20 AND AFTER THE PHYSICIAN SAW MY
21 MOTHER-IN-LAW, THE PHYSICIAN SAW ME
22 AND LISTENED TO MY CHEST AND
23 DETERMINED THAT I HAD SOME FLUID ON MY
24 LUNGS.
25 HE GAVE ME AN INJECTION OF
26 LASIX AND TOLD ME NOT TO GO BACK INTO
27 THE MARINA WHERE WE LIVED, BUT TO GO
28 TO MY MOTHER-IN-LAW'S HOME, WHICH IS
7958
1 CLOSER TO HIS OFFICE, AND STAY THERE,
2 BECAUSE THIS LASIX WAS GOING TO MAKE
3 MY KIDNEYS WORK OVERTIME AND FLUSH A
4 LOT OF LIQUID OUT OF MY SYSTEM. AND
5 THAT'S WHAT I DID.
6 Q. CAN I TRANSLATE THAT A LITTLE?
7 HE DIDN'T WANT YOU TO WET YOUR
8 PANTS ON THE WAY BACK TO YOUR HOME?
9 A. THAT'S RIGHT. EXACTLY.
10 Q. WHO WAS THIS DOCTOR?
11 A. HIS NAME WAS DR. KATTAN.
12 Q. WOULD YOU SPELL IT?
13 A. I BELIEVE IT'S SPELLED K-A,
14 DOUBLE T, A-N.
15 Q. DID YOU GET THE LASIX?
16 A. I DID.
17 Q. DID YOU GO TO YOUR
18 MOTHER-IN-LAW'S?
19 A. I DID.
20 Q. DID YOU MAKE FREQUENT TRIPS TO
21 THE BATHROOM WHILE AT YOUR
22 MOTHER-IN-LAW'S?
23 A. I DID NOT.
24 Q. DID YOU ULTIMATELY LEAVE YOUR
25 MOTHER-IN-LAW'S?
26 A. I DID AND WENT HOME.
27 Q. AND WITHOUT GETTING REAL
28 PERSONAL WITH YOU, DID IT EVER TURN
7959
1 OUT THAT DAY THAT YOU REALLY HAD TO GO

2 TO THE BATHROOM A LOT?
3 A. NO, I DIDN'T. THE LASIX
4 DIDN'T WORK. AND I -- I DIDN'T -- I
5 DIDN'T RELIEVE ANY OF THE LIQUID.
6 Q. OKAY. WHAT DID YOU DO, IF
7 ANYTHING?
8 A. BECAME CONCERNED. MY WIFE
9 CALLED DR. KATTAN'S OFFICE, ADVISED
10 DR. KATTAN THAT I WAS NOT ELIMINATING
11 ANY LIQUID AND THAT MY BREATHING WAS
12 BECOMING MORE DIFFICULT.
13 HE TOLD MY WIFE TO GET ME TO
14 THE CLOSEST EMERGENCY ROOM HOSPITAL,
15 NOT TO CALL 911, LOAD ME IN THE CAR
16 AND GET ME THERE, WHICH IS WHAT SHE
17 DID. SHE TOOK ME TO DANIEL FREEMAN
18 HOSPITAL.
19 Q. DOWN IN THE MARINA?
20 A. DOWN IN THE MARINA.
21 Q. DO YOU RECALL THE DATE OF YOUR
22 VISIT, YOUR FIRST VISIT THERE?
23 A. NOVEMBER 14TH, 2000.
24 Q. TELL US WHAT HAPPENED AT THE
25 EMERGENCY ROOM THAT DAY.
26 A. THEIR INITIAL REACTION WAS
27 THAT I HAD CONGENITAL HEART FAILURE,
28 AND IMMEDIATELY STARTED TO TALK TO ME
7960
1 ABOUT CONGENITAL HEART FAILURE. AND
2 MY HISTORY WAS THAT I HAD NO HISTORY
3 OF CONGENITAL HEART FAILURE.
4 THEY THEN FOUND SOME WAY TO
5 INTERJECT SOME KIND OF A SEDATIVE OF
6 SOME KIND TO RELIEVE THE PAIN AND GOT
7 ME INTO AN INTENSIVE CARE FACILITY
8 WITHIN THAT EMERGENCY ROOM AREA.
9 MY MEMORY IS A LITTLE
10 BIT -- AS A MATTER OF FACT, MY MEMORY
11 IS VERY FUZZY ABOUT WHAT THE NEXT
12 PROCEDURES THEY WERE ABOUT, WHAT THEY
13 DID, BUT I REMEMBER THEM AT SOME TIME,
14 ME MEETING THE EMERGENCY ROOM DOCTOR,
15 TELLING ME SHE HAD IT NARROWED.
16 EITHER I HAD PNEUMONIA, TUBERCULOSIS
17 OR LUNG CANCER. AND THAT THEY WERE
18 GOING TO ISOLATE ME. THEY WERE GOING
19 TO DO SOME FORM OF AN INOCULATION THAT
20 WOULD SHOW IN A PERIOD OF TIME WHETHER
21 OR NOT I HAD TUBERCULOSIS OR NOT, AND
22 THAT THEY WERE GOING TO DO SOME THINGS
23 TO RELIEVE THE LIQUID THAT WAS IN MY
24 LUNGS.
25 Q. DO YOU KNOW THE NAME OF THE
26 EMERGENCY ROOM DOCTOR WHO TOLD YOU
27 THAT?
28 A. I'M SORRY. I DO NOT.
7961
1 Q. HOW LONG HAD YOU STAYED AT
2 DANIEL FREEMAN?
3 A. FOR ALMOST EXACTLY TWO WEEKS.
4 Q. DURING THAT TWO WEEKS, WERE
5 YOU MOVED OUT OF WHAT YOU CALLED THE
6 INTENSIVE CARE PORTION OF THE

7 EMERGENCY ROOM TO A DIFFERENT PART OF
8 THE HOSPITAL?
9 A. YES, I WAS.
10 Q. HOW MANY -- THIS DOESN'T HAVE
11 TO BE PRECISE -- BUT WERE YOU MOVED
12 AROUND A LOT FROM IN THE HOSPITAL?
13 A. TO SEVERAL LOCATIONS.
14 Q. ALL RIGHT.
15 CAN YOU TELL US -- DO YOU HAVE
16 A MEMORY OF WHAT WAS GOING ON SO YOU
17 CAN TELL US ABOUT IT?
18 A. I WAS MOVED INTO A PRIVATE
19 ROOM, AND THAT WAS THE ISOLATION ROOM.
20 AND THE NURSES HAD TO WEAR MASKS, AS
21 DID THE VISITORS AND THE DOCTORS
22 COMING IN AND OUT OF THE ROOM. AND
23 THAT LASTED, I BELIEVE, THREE OR FOUR
24 DAYS.
25 THEY HAD ME, ADDITIONALLY,
26 TETHERED TO AN OXYGEN SUPPLY LINE.
27 AND THEY WERE GIVING ME -- THEY WERE
28 FEEDING ME SOMETHING INTRAVENOUSLY.

7962

1 APPARENTLY, I HAD AN INFECTION, ALSO,
2 AS A RESULT OF THE LUNG
3 CONGESTION, THE LUNG BEING FILLED WITH
4 WATER, SO I WAS CONSTANTLY BEING
5 INTRAVENOUSLY FED WITH SOMETHING.
6 THEY THEN OPERATED ON ME AFTER
7 THAT.
8 Q. WHAT WAS THE OPERATION?
9 A. TO DO TWO THINGS. ONE WAS TO
10 DRAIN MY LUNG -- LUNGS, LUNG, LEFT
11 LUNG, SPECIFICALLY, AND THE OTHER ONE
12 WAS TO PERFORM A BIOPSY TO SEE WHETHER
13 OR NOT I HAD CANCER.
14 Q. DID SOMEONE INFORM YOU OF THE
15 RESULTS OF THE BIOPSY?
16 A. YES.
17 Q. WHO?
18 A. A DOCTOR AT ABOUT EARLY
19 MORNING, DAYBREAK, THE DAY FOLLOWING
20 THE OPERATION.
21 Q. DO YOU REMEMBER THE DATE?
22 A. NO, I DO NOT.
23 Q. WHO WAS THE DOCTOR?
24 A. I DON'T REMEMBER HIS NAME.
25 Q. WHAT WERE YOU TOLD?
26 A. THAT I HAD LUNG CANCER.
27 Q. ANYTHING ELSE?
28 A. THAT WE NEEDED TO GET MOVING

7963

1 AND NEEDED TO START GETTING ME
2 SOME -- GETTING MYSELF PUT TOGETHER
3 AND GET SOME TREATMENT STARTED AS SOON
4 AS WAS HUMANLY POSSIBLE, ON AN
5 OUTPATIENT BASIS, BUT I SHOULD GET
6 MYSELF SET UP FIRST BEFORE THAT WOULD
7 HAPPEN. AND HE MENTIONED
8 CHEMOTHERAPY.
9 Q. OKAY. WHAT HAPPENED?
10 A. I WAS TRANSFERRED -- DANIEL
11 FREEMAN COULDN'T WAIT FOR THE MEDICAL

12 INSURANCE TO COME THROUGH, AND I WAS
13 TRANSFERRED TO USC-COUNTY GENERAL
14 AFTER BEING AT DANIEL FREEMAN FOR TWO
15 WEEKS.

16 Q. LET ME STOP YOU THERE AND JUST
17 BACK UP A BIT.

18 WHAT HAPPENED AT DANIEL
19 FREEMAN FOR AT LEAST THE LAST WEEK AND
20 MAYBE MORE AFTER YOU WERE DIAGNOSED?

21 WHAT WERE THEY DOING FOR YOU?

22 A. OTHER THAN TO CONTINUE TO GIVE
23 ME INTRAVENOUS FEEDINGS AND TO GIVE ME
24 SOME KIND OF MEDICATION FOR PAIN,
25 NOTHING ELSE.

26 Q. NO CHEMO?

27 A. NO CHEMO.

28 Q. WHAT DID YOU THINK ABOUT BEING

7964

1 DIAGNOSED WITH LUNG CANCER?

2 A. FRIGHTENING.

3 Q. WHEN DID YOU GO TO USC?

4 A. AFTER BEING AT DANIEL FREEMAN
5 FOR TWO WEEKS, ROUGHLY NOVEMBER 22ND
6 OR NOVEMBER 23RD.

7 Q. HOW DID YOU GET THERE?

8 A. BY AMBULANCE.

9 Q. WERE YOU ACCEPTED INTO A WARD?

10 A. INITIALLY, NO.

11 Q. HOW LONG DID "INITIALLY NO" GO
12 ON FOR?

13 A. SEVERAL DAYS.

14 Q. WHERE WERE YOU FOR THE FIRST
15 SEVERAL DAYS?

16 A. EITHER IN HALLWAYS OR IN SOME
17 KIND OF CUBICLES.

18 Q. DID YOU GET ANY TREATMENT
19 DURING THE FIRST SEVERAL DAYS?

20 A. NO.

21 Q. IN THE FIRST COUPLE OF DAYS
22 THAT YOU WERE AT USC-COUNTY GENERAL
23 HOSPITAL, WERE YOU GIVEN A PROGNOSIS
24 BY ANY DOCTORS?

25 A. YES.

26 Q. APPROXIMATELY WHEN WAS THIS IN
27 RELATION TO YOUR FIRST GOING TO THE
28 HOSPITAL -- TO THE USC-COUNTY GENERAL

7965

1 HOSPITAL?

2 A. WITHIN THE FIRST FOUR DAYS.

3 Q. DO YOU KNOW THE NAME OF THE
4 DOCTOR WHO GAVE YOU THE PROGNOSIS?

5 A. NO, I DO NOT.

6 Q. WITHIN THE FIRST FOUR DAYS
7 THAT YOU WERE AT THE HOSPITAL, HAD YOU
8 BEEN SEEN BY MORE THAN ONE DOCTOR?

9 A. YES, I HAD.

10 Q. APPROXIMATELY HOW MANY?

11 A. APPROXIMATELY TEN.

12 Q. WHAT WAS THE PROGNOSIS?

13 A. THAT I SHOULD PLAN ON NOT
14 LEAVING THE HOSPITAL ON MY OWN POWER;
15 THAT I SHOULD GET MY AFFAIRS IN ORDER
16 IMMEDIATELY, AS BEST I COULD, AND

17 PREPARE TO -- PREPARE TO DIE.
18 Q. DID THIS PROGNOSIS OCCUR STILL
19 IN -- SOMETIME IN NOVEMBER OF -- OR
20 EARLY DECEMBER OF 2000?
21 A. YES.
22 Q. AFTER A WHILE, WERE YOU
23 ASSIGNED A DOCTOR TO BE YOUR DOCTOR?
24 A. YES.
25 Q. APPROXIMATELY HOW LONG HAD YOU
26 BEEN IN THE HOSPITAL WHEN THEY GOT A
27 DOCTOR FOR YOU?
28 A. APPROXIMATELY TEN DAYS TO TWO
7966
1 WEEKS. TEN DAYS.
2 Q. WHO WAS THE DOCTOR?
3 A. DR. NANCY RUBEN.
4 Q. DID SHE EITHER INTRODUCE
5 HERSELF OR HAVE SOMEONE ELSE INTRODUCE
6 HER, AS TO HER SPECIALTY
7 QUALIFICATIONS TO TREAT?
8 A. SHE INTRODUCED HERSELF, BUT
9 SHE DID NOT GIVE ME HER SPECIALTIES.
10 SOMEONE ELSE DID.
11 Q. WHAT WERE YOU TOLD ABOUT HER
12 SPECIALTIES?
13 A. THAT SHE WAS THE HEAD FELLOW
14 FOR ONCOLOGY AND WAS IN CHARGE OF THE
15 ONCOLOGY SECTION FOR THE HOSPITAL.
16 Q. DID SHE REMAIN YOUR TREATING
17 DOCTOR DURING THE REMAINDER OF YOUR
18 TIME AT USC-COUNTY GENERAL HOSPITAL?
19 A. SHE DID.
20 Q. WHAT WAS THE TREATMENT?
21 A. THE TREATMENT WAS
22 CHEMOTHERAPY.
23 Q. YOU DESCRIBED YESTERDAY SOME
24 CHEMOTHERAPY YOU HAD GOTTEN AT
25 MID-WILSHIRE RECENTLY?
26 A. YES.
27 Q. WAS THE CHEMOTHERAPY YOU WERE
28 GETTING OVER AT USC-COUNTY GENERAL
7967
1 HOSPITAL IN LATE 2000 ABOUT THE SAME
2 SETUP?
3 A. IT WAS DIFFERENT CHEMO, BUT
4 THE METHOD OF DELIVERY AND THE
5 DURATION OF DELIVERY WAS THE SAME.
6 Q. "DIFFERENT CHEMO" MEANING
7 DIFFERENT DRUGS INJECTED?
8 A. THAT'S CORRECT.
9 Q. WHILE YOU WERE IN THE HOSPITAL
10 GETTING CHEMO, DID YOU GET ANY SIDE
11 EFFECTS FROM IT?
12 A. YES.
13 Q. WHAT?
14 A. NAUSEA, EXTREME FATIGUE, VERY
15 LOW LEVELS OF ENERGY.
16 Q. HOW LONG WERE YOU HOSPITALIZED
17 AT USC-COUNTY GENERAL HOSPITAL?
18 A. I RECEIVED ONE CHEMO TREATMENT
19 AT USC HOSPITAL AS A PATIENT AND WAS
20 RELEASED MAYBE A WEEK BEFORE CHRISTMAS
21 OF 2000.

22 Q. IF YOU TOTALED UP THE
23 CONSECUTIVE DAYS IN THE HOSPITAL AT
24 BOTH PLACES THAT YOU'VE MENTIONED,
25 WHAT WOULD IT COME OUT TO?
26 A. APPROXIMATELY 30.
27 Q. DAYS?
28 A. DAYS.

7968

1 Q. FOR THE YEAR 2000, WHERE DID
2 YOU SPEND CHRISTMAS?
3 A. I SPENT CHRISTMAS AT HOME.
4 Q. TELL US A LITTLE BIT YOUR
5 MENTAL STATE AT THAT TIME, HAVING BEEN
6 DIAGNOSED WITH LUNG CANCER.
7 A. I WAS DEPRESSED. I FELT
8 HOPELESS. I WAS VERY CONCERNED ABOUT
9 MY WIFE. I WAS CONCERNED ABOUT MY
10 ECONOMICS, MY FINANCIAL POSITION. I
11 KNEW I WAS IN A BIG FIGHT. I WAS
12 SCARED TO DEATH THAT I WAS GOING TO BE
13 TETHERED TO AN OXYGEN LINE SO THAT I
14 WOULD NOT BE MOBILE OR ACTIVE. I
15 DIDN'T WANT MY GRANDCHILDREN TO BE
16 CONCERNED ABOUT ME OR SEE ME THIS WAY.
17 I WAS IN PRETTY BAD SHAPE.
18 Q. TAKE A COUPLE OF DEEP BREATHS.
19 I'M NOT GOING TO ASK A QUESTION FOR
20 ABOUT 30 SECONDS OR SO.
21 WOULD YOU LIKE SOME WATER?
22 A. NO, THANK YOU.
23 Q. TELL US WHAT THE TREATMENT
24 REGIME WAS ONCE YOU HAD LEFT
25 COUNTY-USC AS A PATIENT, PLEASE.
26 A. ON A WEEKLY BASIS, I WOULD GET
27 TO THE HOSPITAL EARLY AND GO AND HAVE
28 A BLOOD TEST PERFORMED IN A LAB.

7969

1 THEN AFTER THE BLOOD TEST, I
2 WOULD GO UPSTAIRS TO -- I THINK IT WAS
3 THE 11TH FLOOR, WHICH WAS WHERE THE
4 CHEMOTHERAPY WAS CONDUCTED. THEY
5 WOULD WAIT TO MAKE CERTAIN THAT THE
6 BLOOD TEST WAS ACCEPTABLE SO THAT MY
7 SYSTEM COULD TOLERATE THE CHEMO.
8 SOMETIMES, IT COULD; AND SOMETIMES, IT
9 COULDN'T.
10 THEN THEY WOULD ADMINISTER THE
11 CHEMO. AND THE CHEMO CAME
12 IN -- ACTUALLY, THE WAY IT SHOULD HAVE
13 BEEN DELIVERED IS IN FOUR-WEEK
14 SEQUENCES, BUT MY BODY COULDN'T
15 TOLERATE THE FOURTH WEEK. SO WHAT
16 THEY WOULD DO IS THEY WOULD -- THEY
17 DELIVERED IT TO ME IN THREE-WEEK
18 SEQUENCES AND THEN HAD ME COME IN THE
19 FOURTH WEEK TO TEST MY BLOOD, KNOWING
20 FULL WELL THAT I WOULDN'T BE ABLE
21 TO -- MY PATTERN BECAME THAT THE
22 FOURTH WEEK, MY BLOOD CELLS WERE LOW
23 ENOUGH, SUFFICIENTLY LOW SO THEY
24 COULDN'T ADMINISTER THE CHEMO. SO IT
25 ENDED UP BEING THREE WEEKS ON, ONE
26 WEEK OFF, THREE WEEKS ON, ONE WEEK

27 OFF. THE THIRD WEEK, THEY GAVE ME A
28 LARGER DOSAGE OF THE CHEMO THAN ON THE

7970

1 FIRST AND THE SECOND WEEK.

2 AND THEN, ON OCCASIONS, IT
3 DEPENDS ON HOW LOW MY RED BLOOD CELLS
4 FELL -- WHAT LEVEL THEY FELL TO, BUT
5 ON OCCASIONS, THEY WOULD THEN GIVE ME
6 PLASMA OR RED BLOOD TO BUILD MY SYSTEM
7 BACK UP AGAIN.

8 Q. HOW LONG DID THIS REGIME GO
9 FOR, PLEASE?

10 A. IT WENT FOR APPROXIMATELY SIX
11 MONTHS. I WAS SO HAPPY IT WAS OVER.
12 I CAN TELL YOU IT ENDED ON
13 JUNE 28TH, 2001. SO IT STARTED
14 ROUGHLY MID DECEMBER 2000 AND ENDED
15 JUNE 28TH, 2001.

16 Q. WERE ALL OF THE CHEMOTHERAPY
17 TREATMENTS GIVEN AT USC-COUNTY GENERAL
18 HOSPITAL?

19 A. YES, THEY WERE.

20 Q. HOW LONG, FROM WHEN YOU
21 ARRIVED AT THE HOSPITAL UNTIL YOU WERE
22 DONE AND WALKED OUT THE DOOR, WERE
23 YOUR VISITS TO THE HOSPITAL FOR THESE
24 CHEMOTHERAPY SESSIONS?

25 A. I DIDN'T HEAR THE LAST PART OF
26 THE QUESTION.

27 Q. HOW LONG DID IT TAKE PER
28 VISIT?

7971

1 A. YOU MEAN HOW LONG WAS EACH
2 DAILY SESSION?

3 Q. YES.

4 A. ALL DAY.

5 Q. WHY?

6 A. WELL, IT'S NOT AN APPOINTMENT
7 THAT YOU GET WHEN YOU GO THERE. YOU
8 JUST SHOW UP AND TAKE A NUMBER. SO
9 YOU JUST WAITED YOUR TURN.

10 AND SOMETIMES, THE LABORATORY
11 WAS BUSIER THAN OTHER TIMES, SO YOU
12 MAY ARRIVE THERE AT 9 O'CLOCK IN THE
13 MORNING TO GET YOUR BLOOD WORK TAKEN,
14 BUT THEN THAT WORK HAD TO BE ANALYZED,
15 AND THEN IT HAD TO BE SENT UPSTAIRS,
16 AND THEY'RE OVERLOADED WITH WORK.

17 AND MORE OFTEN THAN NOT, BY
18 THE TIME THEY WOULD START TO
19 ADMINISTER CHEMOTHERAPY TO ME AND GET
20 IT MIXED AND COME FROM WHEREVER IT
21 CAME FROM, THEY WOULDN'T START DOING
22 THAT UNTIL MAYBE 1:30 OR 2 O'CLOCK IN
23 THE AFTERNOON.

24 AND THEN IT NORMALLY WOULD
25 TAKE, ON AVERAGE, PROBABLY THREE,
26 MAYBE FOUR HOURS FOR THE CHEMO,
27 DEPENDING UPON HOW MUCH THEY WERE
28 GIVING ME. IT WOULD DEPEND UPON -- IT

7972

1 WOULD TAKE THAT LENGTH OF TIME TO
2 DELIVER ALL OF THE CHEMO INTO MY

3 SYSTEM, AND SO IT WOULD BE THE FULL
4 DAY OF BEING THERE.

5 Q. TYPICALLY, WHEN WOULD THE SIDE
6 EFFECTS START IN RELATION TO GETTING
7 THE DRUGS?

8 A. ALMOST IMMEDIATELY. WITHIN
9 SEVERAL HOURS. I WOULD BE NAUSEATED
10 FOR DINNER.

11 Q. YESTERDAY, YOU TOLD US ABOUT
12 SOME SYMPTOMS HAVING TO DO WITH YOUR
13 EXTREMITIES, HANDS AND FEET.

14 DID THOSE SYMPTOMS EXIST BACK
15 IN THE USC-COUNTY GENERAL CHEMOTHERAPY
16 DAYS?

17 A. NO.

18 Q. IT'S PROBABLY FAIRLY COMMON
19 KNOWLEDGE THAT SOME PEOPLE, WHEN THEY
20 HAVE CHEMOTHERAPY, LOSE THEIR HAIR.

21 HAVE YOU EVER HEARD THAT?

22 A. YES.

23 Q. WERE YOU FORTUNATE THAT YOU
24 DIDN'T HAVE THAT MUCH TO LOSE?

25 A. I WAS -- I'VE LOST SOME, BUT I
26 DIDN'T HAVE THAT MUCH TO LOSE WHEN I
27 STARTED.

28 Q. SO THAT HASN'T BEEN A PROBLEM
7973

1 FOR YOU?

2 A. NO. NO. I -- NO.

3 Q. ASIDE FROM GETTING THE
4 CHEMOTHERAPY ON AN OUTPATIENT BASIS
5 FOR ROUGHLY, IF I'M LISTENING
6 CORRECTLY, SEVEN MONTHS, ENDING
7 JUNE 28TH, DID YOU GET ANY OTHER
8 TREATMENT FOR YOUR LUNG CANCER DURING
9 THAT TIME?

10 A. NO.

11 Q. SO, FOR EXAMPLE, NO RADIATION
12 THERAPY?

13 A. THAT'S CORRECT.

14 Q. NO BIG SURGERIES?

15 A. THAT'S CORRECT.

16 Q. WHY DID THE CHEMOTHERAPY STOP?

17 A. THE TUMOR SHRUNK QUITE A BIT,
18 ENOUGH SO THAT I WAS IMPRESSED, AND
19 THEY WERE, TOO. THEY WANTED TO GIVE
20 ME A REST FROM THE CHEMO AND WANTED TO
21 MONITOR ME AT THE SAME TIME, AND
22 THAT'S WHAT THEY DID.

23 Q. HOW DID THE MONITORING HAPPEN?

24 A. A COMBINATION OF X-RAYS, CAT
25 SCANS, BONE SCANS, CT, THAT TYPE OF
26 THING, WHERE THEY ARE LOOKING AT ME
27 INSIDE.

28 Q. HOW OFTEN?
7974

1 A. ABOUT A FOUR-MONTH CYCLE, A
2 FOUR-MONTH PERIOD.

3 Q. WHY DID THE CHEMOTHERAPY
4 RESUME?

5 A. BECAUSE THE CANCER STARTED TO
6 GROW AGAIN.

7 Q. WHEN WERE YOU INFORMED THAT

8 THE CANCER HAD STARTED TO GROW AGAIN?
9 A. THE FIRST.
10 Q. THE FIRST OF MAY 2002?
11 A. 2002.
12 Q. WHO INFORMED YOU?
13 A. MY DOCTOR, DR. KASABIAN.
14 Q. WHERE DOES DR. KASABIAN
15 PRACTICE, PLEASE?
16 A. THE MID-WILSHIRE AREA. I
17 DON'T KNOW THE EXACT ADDRESS.
18 Q. WHEN DID YOU BECOME A PATIENT
19 OF DR. KASABIAN'S?
20 A. ALMOST IMMEDIATELY AFTER I
21 STOPPED BEING TREATED AT USC. SO
22 ROUGHLY, JULY 1ST OF 2001.
23 Q. WHAT SPECIALTY IS
24 DR. KASABIAN?
25 A. ONCOLOGIST.
26 Q. SINCE YOUR CHEMOTHERAPY HAS
27 RESUMED, HAVE THERE BEEN ANY TESTS,
28 SUCH AS THE SCANS OR THE X-RAYS THAT
7975
1 YOU MENTIONED, TO SEE THE RESULTS OF
2 THIS CURRENT COURSE OF CHEMOTHERAPY?
3 A. NOT YET.
4 Q. WHEN WILL THAT OCCUR?
5 A. PROBABLY THE END OF THIS
6 MONTH.
7 Q. AFTER A ROUND OF CHEMOTHERAPY
8 AND THE SYMPTOMS -- DO THE SYMPTOMS
9 STILL START WITHIN A COUPLE OF HOURS?
10 A. NO. THIS PARTICULAR CHEMO, IT
11 TAKES APPROXIMATELY 24 HOURS TO 30
12 HOURS BEFORE THE MOST UNCOMFORTABLE OF
13 THE SYMPTOMS BEGIN.
14 Q. WHAT ARE THE MOST
15 UNCOMFORTABLE OF THE SYMPTOMS?
16 A. SEVERE STOMACH CRAMPING. VERY
17 SEVERE STOMACH CRAMPING.
18 Q. AS THE WEEK ROLLS ON, DO THE
19 SYMPTOMS GET BETTER, WORSE, STAY THE
20 SAME?
21 A. AS THE WEEK ROLLS ON, ANOTHER
22 SYMPTOM OCCURS, AND THAT IS AN EXTREME
23 UPSET STOMACH, SIMILAR TO HEARTBURN,
24 NOT SIMILAR TO NAUSEA. THE CRAMPING
25 DIMINISHES. THE HEARTBURN, UPSET
26 STOMACH, REMAINS FOR A COUPLE OF DAYS,
27 AND ROUGHLY BY THE END OF THE FOURTH
28 DAY, THOSE SYMPTOMS ARE GONE.
7976
1 Q. DO YOU HAVE ANY SYMPTOMS
2 TODAY?
3 A. NO, I DO NOT.
4 Q. HOW DO YOU FEEL?
5 A. PHYSICALLY?
6 Q. YEAH.
7 A. I FEEL GOOD, THANK YOU.
8 Q. DID YOU WORK THIS MORNING?
9 A. I DID.
10 Q. YESTERDAY?
11 A. YES.
12 Q. LAST WEEK?

13 A. YES.
14 Q. THE WEEK BEFORE?
15 A. YES.
16 Q. THE MONTH BEFORE?
17 A. YES.
18 Q. DO YOU LIKE WORK?
19 A. I ENJOY WORKING, YES.
20 Q. ON THE DAY THAT YOU WENT TO
21 YOUR MOTHER-IN-LAW'S DOCTOR IN
22 NOVEMBER OF 2000, HAD YOU WORKED
23 EARLIER THAT DAY?
24 A. NO, I HAD NOT.
25 Q. HOW LONG -- I'M SORRY. YOU
26 TOLD US THIS. IT HAD BEEN THE WEEKEND
27 BEFORE?
28 A. YES.

7977

1 AFTER I STOPPED TAKING THE
2 CHEMO IN JUNE, ONE OF THE ENORMOUS
3 BENEFITS OF NOT TAKING THE CHEMO IS
4 THAT THAT POISON ISN'T IN YOUR BODY
5 ANY LONGER, AND YOUR BODY STARTS TO
6 FEEL A LOT BETTER. AND WHEN MY BODY
7 STARTED TO FEEL BETTER, I WAS ABLE TO
8 WORK A LOT BETTER AND STARTED TO WORK
9 AT A HIGHER LEVEL OF PRODUCTIVITY THAN
10 I HAD BEEN ABLE TO WORK IN THE PAST.

11 Q. AND WHAT ABOUT -- SINCE YOU'VE
12 RESUMED THE CHEMOTHERAPY, HOW HAS YOUR
13 PRODUCTIVITY BEEN?

14 A. FORTUNATELY, THIS CHEMO
15 DOESN'T SEEM TO BE AS DEBILITATING AS
16 THE OTHER CHEMO. AND, FORTUNATELY, I
17 DON'T HAVE TO WASTE A WHOLE DAY
18 GETTING THE CHEMO. SO IN THIS
19 PARTICULAR CASE, IT'S A HALF A DAY A
20 WEEK THAT I'M INVOLVED WITH TAKING THE
21 CHEMO, TRAVELING BACK AND FORTH A
22 SHORTER DISTANCE.

23 AND ALSO, IN THIS PARTICULAR
24 CASE, THE CHEMO DOESN'T ROB ME SO MUCH
25 OF MY ENERGY. MY DOCTOR SAYS THAT MY
26 BASELINE OF HEALTH IS MUCH HIGHER NOW
27 THAN IT WAS THEN, SO IT DOESN'T HAVE
28 THE SAME DRAMATICALLY NEGATIVE EFFECT

7978

1 UPON ME. SO IT'S NOT AS DIFFICULT NOW
2 AS IT WAS BEFORE.

3 Q. THANKS.
4 PUTTING ASIDE MOMENTARILY WHAT
5 YOUR DOCTOR SAID, DO YOU FEEL STRONGER
6 AND BETTER NOW THAN YOU DID, LET'S
7 SAY, IN THE BEGINNING OF 2001, THE
8 FIRST THREE MONTHS OF 2001?

9 A. YES, I DO.

10 Q. WHERE IS YOUR BUSINESS NOW,
11 PLEASE?

12 A. IN [DELETED], CALIFORNIA.

13 Q. HOW LONG HAS IT BEEN IN [DELETED]
14 [DELETED]?

15 A. SINCE MARCH 15TH, 2001.

16 Q. WHERE WAS YOUR BUSINESS ON THE
17 DAY THAT YOU WENT TO SEE YOUR

18 MOTHER-IN-LAW'S DOCTOR?
19 A. [DELETED], CALIFORNIA.
20 Q. WHERE?
21 A. I'M SORRY. I DIDN'T HEAR.
22 Q. WAS IT AN OFFICE BUILDING
23 SOMEWHERE?
24 A. NO.
25 Q. WHERE WAS IT?
26 A. IT WAS IN THE GUEST HOUSE OF
27 MY PARTNER IN [DELETED]. LARGE
28 GUEST HOUSE.
7979
1 Q. OKAY. SO, THEREFORE, I'M
2 GOING TO TAKE ANOTHER STEP BACK.
3 YOU'VE PREVIOUSLY TESTIFIED
4 THAT YOU REESTABLISHED A BUSINESS
5 UNDER A NEW NAME.
6 WHAT WAS THAT NAME AGAIN?
7 A. CHECKS BY FAX. ALSO KNOWN AS
8 ICCP.
9 Q. WHAT YEAR?
10 A. 1996, APPROXIMATELY.
11 Q. AT [DELETED]?
12 A. ORIGINALLY.
13 Q. HOW LONG WERE YOU AT [DELETED]
14 [DELETED] THAT TIME?
15 A. UNTIL APPROXIMATELY DECEMBER
16 1998.
17 Q. WHERE DID YOUR BUSINESS MOVE
18 IN APPROXIMATELY DECEMBER OF 1998?
19 A. [DELETED],
20 [DELETED].
21 Q. HOW LONG WAS YOUR BUSINESS AT
22 THAT ADDRESS?
23 A. UNTIL APPROXIMATELY JULY 2000.
24 Q. AT WHICH TIME IT MOVED TO YOUR
25 PARTNER'S GUEST HOUSE?
26 A. THAT'S CORRECT.
27 Q. IN EARLY NOVEMBER 2000, WHO
28 WORKED AT YOUR COMPANY?
7980
1 A. JUST TWO EMPLOYEES, TWO
2 PARTNERS. MYSELF AND MY PARTNER.
3 Q. DO YOU STILL HAVE A PARTNER?
4 A. NO.
5 Q. WHEN DID THAT END?
6 A. THAT BUSINESS -- THAT
7 PARTNERSHIP ACTUALLY ENDED WHEN I WENT
8 INTO THE HOSPITAL.
9 Q. ON MARCH 15TH, 2001, WHICH IS,
10 IF I'M LISTENING CORRECTLY, WAS YOUR
11 FIRST DAY BACK AT WORK AFTER CHEMO,
12 YOU OPENED UP BUSINESS IN THE [DELETED]?
13 A. THAT'S CORRECT.
14 Q. WHERE?
15 A. THE PHYSICAL ADDRESS?
16 [DELETED],
17 [DELETED].
18 Q. WHAT IS THAT?
19 IS THAT A RESIDENCE OR A
20 COMMERCIAL --
21 A. NO.
22 Q. -- BUILDING?

23 A. COMMERCIAL OFFICES.
 24 Q. THE NAME OF YOUR BUSINESS,
 25 PLEASE?
 26 A. ANCHOR FINANCIAL.
 27 Q. WHO WORKS FOR ANCHOR FINANCIAL
 28 BESIDES YOU?
 7981
 1 A. AT THIS POINT IN TIME, NO
 2 OTHER PAID EMPLOYEE.
 3 Q. WHO HAS -- WHO HAS WORKED AT
 4 ANCHOR FINANCIAL BESIDES YOU?
 5 A. UNTIL RECENTLY, A PARTNER.
 6 AND UNTIL RECENTLY, SEVERAL EMPLOYEES.
 7 Q. WHEN IS "RECENTLY"?
 8 A. WITHIN THE LAST 35, 40 DAYS.
 9 Q. WHAT WAS THE THING THAT YOU
 10 WERE WORKING ON?
 11 A. SOFTWARE. IT'S THE TYPE OF
 12 SOFTWARE THAT LETS THE PEOPLE WHO HAVE
 13 IT TAKE THE CHECKS, ACTUAL PHYSICAL
 14 BANK CHECKS OVER THE PHONE OR THROUGH
 15 A FAX MACHINE AND GENERATE A BANK
 16 DRAFT IN THEIR OFFICES AND BE ABLE TO
 17 HAVE ACCESS TO THAT FUND
 18 IMMED- -- THOSE FUNDS AS AN IMMEDIATE
 19 DEPOSIT.
 20 Q. HOW LONG HAVE YOU BEEN
 21 INVOLVED IN THAT BUSINESS?
 22 A. I STARTED IN THAT BUSINESS IN
 23 ABOUT 1996, UP THROUGH AND INCLUDING
 24 WHEN I WENT IN THE HOSPITAL IN
 25 NOVEMBER OF 2000.
 26 Q. I'VE HEARD A RUMOR THAT
 27 SOMETIME IN THE EARLY PART OF 2000,
 28 HIGH-TECH INDUSTRIES, SORT OF, HAVE
 7982
 1 BEEN HAMMERED IN OUR ECONOMY.
 2 HAVE YOU HEARD THAT?
 3 A. CERTAINLY.
 4 Q. WHY WAS YOUR SOFTWARE COMPANY
 5 ANY DIFFERENT THAN THE HIGH-TECH
 6 INDUSTRY GENERALLY, IF IT WAS?
 7 A. IT WAS SIGNIFICANTLY
 8 DIFFERENT. WE HAD A PRODUCT THAT WAS
 9 A VIABLE COMMODITY WHERE WE WERE
 10 ACTUALLY SELLING A PRODUCT. WE HAD
 11 LOW OVERHEAD. WE WERE NOT A DOT-COM
 12 COMPANY, NOR WERE WE PUBLICLY TRADED,
 13 SO WE HAD NO OUTSIDE INVESTORS OR
 14 OUTSIDE ISSUES TO ADDRESS OR TO DEAL
 15 WITH. JUST SIMPLY A PRODUCT.
 16 AND ALTHOUGH I'LL NEVER KNOW
 17 NOW, I LONG HELD THE BELIEF THAT THE
 18 PRODUCT WOULD BE A MORE VIABLE PRODUCT
 19 IN A RECESSIONARY OR DOWNTURNED
 20 ECONOMY, WHERE PEOPLE NEEDED TO GET
 21 THEIR MONEY QUICKER, THAN IT WOULD BE
 22 IN A BULLISH ECONOMY WHERE THERE WAS
 23 PLENTY OF CASH FLOW.
 24 SO FOR ALL THOSE REASONS, I
 25 FELT IT WOULD DO WELL.
 26 Q. AS A RESULT OF THE WORDING OF
 27 ONE OF YOUR PAST ANSWERS HERE, I'VE

28 GOT TO ASK THIS.

7983

1 ARE YOU IN A
2 DIFFERENT -- TOTALLY DIFFERENT
3 BUSINESS NOW?

4 A. YES.

5 Q. AND WHAT DOES THIS CURRENT
6 BUSINESS DO?

7 A. IT'S AN EQUIPMENT LEASING
8 BROKERAGE, SIMILAR TO THE BUSINESS
9 THAT I CONDUCTED IN THE '80S WITH
10 FAR WEST VENTURES.

11 Q. IF I WERE TO CALL YOU A
12 BUSINESSMAN -- I MIGHT CALL SOMEONE A
13 JUDGE OR SOMEONE A TRUCK DRIVER OR
14 SOMEONE A SCHOOL TEACHER -- IS
15 BUSINESSMAN A PROPER TERM FOR YOU?

16 A. YES, SIR.

17 Q. HOW LONG HAVE YOU BEEN A
18 BUSINESSMAN?

19 A. SINCE MY EARLY 20'S.

20 Q. ARE YOU AWARE THAT THERE ARE
21 PEOPLE WHO ARE SUSPICIOUS OF BUSINESS?

22 A. YES, I AM.

23 Q. ARE YOU AWARE THAT THERE ARE
24 PEOPLE WHO ARE SUSPICIOUS OF BIG
25 BUSINESS, ESPECIALLY?

26 A. YES, I AM.

27 Q. BIG CORPORATIONS?

28 A. YES.

7984

1 Q. HAVE YOU EVER BEEN ONE OF
2 THOSE PEOPLE?

3 A. FOR THE GREATEST SHARE OF MY
4 LIFE, NO.

5 Q. WHEN DID THAT CHANGE?

6 A. MOST RECENTLY, THE -- THE
7 SITUATIONS THAT INVOLVE ENRON AND THE
8 SITUATIONS THAT INVOLVE
9 ARTHUR ANDERSEN AND THE SITUATIONS
10 THAT INVOLVE SOME OF THESE LARGE
11 CORPORATIONS HAVE SHADED MY THINKING.

12 Q. WOULD YOU CHARACTERIZE
13 YOURSELF AS A POLITICALLY CONSERVATIVE
14 PERSON, A LIBERAL PERSON, A
15 MIDDLE-OF-THE-ROAD PERSON?

16 WHAT TERM WOULD YOU USE?

17 A. I'M A POLITICAL CONSERVATIVE.

18 Q. REMEMBER, YESTERDAY, I WAS
19 SHOWING YOU PICTURES -- IT TOOK A LONG
20 TIME -- FROM ADS FOR VARIOUS
21 CIGARETTES --

22 A. YES, I DO.

23 Q. -- THAT YOU HAD SPECIFICALLY
24 SEEN AND LOOKED AT?

25 DO YOU REMEMBER I ASKED YOU
26 QUESTIONS EVERY FIFTH TIME OR SIXTH
27 TIME IF THERE WERE ANY WARNINGS,
28 CAUTIONS, NEGATIVE INFORMATION ON ANY

7985

1 OF THOSE ADS?

2 A. YES, I DO.

3 Q. SOMETIME DURING YOUR TESTIMONY

4 YESTERDAY, YOU MENTIONED THE FACT THAT
5 YOU WERE AWARE THAT AT SOME TIME, YOU
6 WERE AWARE OF WARNINGS THAT CAME ONTO
7 THE PACKS OF CIGARETTES?
8 A. YES.
9 Q. AND YOU TOLD US WHAT YOU
10 THOUGHT THEY SAID.
11 DO YOU REMEMBER THAT?
12 A. YES, I DO.
13 Q. LET ME SHOW YOU SOME MORE ADS
14 NOW, PLEASE.
15 AND I DON'T WANT YOU TO -- AND
16 I'LL WANT YOU TO NUMBER THESE, ALSO.
17 SO I GUESS OUR LAST NUMBER YESTERDAY
18 WOULD HAVE BEEN 102.
19 NOW, I'D JUST LIKE TO START
20 OFF BY SAYING THE SAME THING TO YOU,
21 MR. RELLER.
22 IF SOMEHOW SOMETHING IS IN
23 THIS PACK THAT YOU DIDN'T PERSONALLY
24 PICK OUT AS SOMETHING YOU RECOGNIZE,
25 LET US KNOW, AND WE'LL PUT IT ASIDE,
26 JUST AS WE DID YESTERDAY.
27 OKAY?
28 A. YES.
7986
1 Q. OKAY.
2 SO THAT FIRST ONE THERE THAT
3 WE'RE GOING TO MAKE NO. 103, IS THAT
4 SOMETHING THAT YOU PERSONALLY
5 RECOGNIZE?
6 A. YES, IT IS.
7 Q. COULD YOU -- IS THERE A YEAR
8 THAT'S CLEARLY STATED THERE?
9 A. NO, THERE'S NOT.
10 Q. COULD YOU HOLD THAT UP FOR THE
11 CAMERA, PLEASE.
12 AND I'D ASK THE VIDEOGRAPHER
13 TO ZOOM IN AS MUCH AS HE CAN ON IT.
14 OKAY. THANK YOU VERY MUCH.
15 NOW, I'M GOING TO POINT OUT TO
16 YOU, MR. RELLER, THAT IN THE LOWER
17 CORNER, THERE'S SOME WRITING DOWN
18 THERE.
19 DO YOU SEE THAT?
20 A. YES, I DO.
21 Q. CAN YOU READ IT?
22 A. YES.
23 Q. WHAT DOES IT SAY?
24 A. "THE SURGEON GENERAL HAS
25 DETERMINED THAT CIGARETTES" -- "THAT
26 SMOKING IS DANGEROUS TO YOUR HEALTH,"
27 AND THEN THERE'S A LITTLE TINY 1973
28 WRITTEN IN THERE.
7987
1 Q. THE 1973 IS NOT PART OF THE
2 ORIGINAL?
3 A. IT IS NOT.
4 Q. HOLD IT UP AGAIN NOW SO
5 THAT -- YOU'VE READ IT NOW.
6 ALL RIGHT. THANKS.
7 NOW, WOULD YOU NUMBER THAT AND
8 PUT IT --

9 DO YOU RECOGNIZE THIS NEXT ONE
10 THAT YOU'RE ABOUT TO PUT UP?
11 A. YES, I DO.
12 Q. I'M NOT GOING TO ASK YOU THAT
13 QUESTION ANYMORE. WHEN YOU DON'T
14 RECOGNIZE IT, YOU TELL US. OKAY?
15 A. OKAY.
16 Q. THE SAME QUESTION NOW. IN
17 ADDITION TO THE BIG PRINT THAT
18 SAYS, "COME TO WHERE THE FLAVOR IS,"
19 IS THERE SOME SMALLER PRINT IN THAT
20 AD?
21 A. THERE IS.
22 Q. WHAT DOES IT SAY?
23 A. "WARNING: THE SURGEON GENERAL
24 HAS DETERMINED THAT CIGARETTE SMOKING
25 IS DANGEROUS TO YOUR HEALTH."
26 Q. OKAY. COULD YOU HOLD THAT UP
27 FOR THE CAMERA AGAIN, AND I'LL ASK YOU
28 TO TAKE A LOOK AT IT.

7988

1 COULD YOU FOCUS ON THE WHOLE
2 PICTURE, MR. VIDEOGRAPHER.
3 JUST -- LET'S GET THE WHOLE
4 PICTURE.
5 ALL RIGHT. THANK YOU.
6 THAT WILL BE 104 YOU'RE ABOUT
7 TO MARK, I BELIEVE.
8 A. THANK YOU.
9 Q. THE SAME WARNING?
10 A. YES, THE SAME WARNING.
11 Q. OKAY. COULD YOU NUMBER THAT.
12 IS THE WARNING ON THAT AD THE
13 SAME?
14 A. IT'S THE SAME.
15 Q. THANK YOU.
16 IS THE WARNING ON THAT AD THE
17 SAME?
18 A. YES, IT'S THE SAME WARNING.
19 Q. THANK YOU.
20 MARK THAT, PLEASE.
21 I'M GOING TO SHOW YOU A COUPLE
22 OF MORE AND THEN WE'LL MARK THEM AS A
23 GROUP AS WE DID YESTERDAY.
24 IS THAT THE SAME WARNING
25 AGAIN?
26 A. YES, IT'S THE SAME WARNING.
27 Q. THANK YOU.
28 AND IS THAT ALSO THE SAME

7989

1 WARNING?
2 A. YES, IT'S THE SAME WARNING.
3 Q. OKAY. WOULD YOU MARK THAT.
4 WE'LL DO ONE MORE AND THEN STOP THIS
5 PROCESS.
6 NOW, WHEN YOU TURN THAT
7 AROUND, I'M GOING TO ASK YOU -- DON'T
8 DO IT YET, PLEASE -- I'M GOING TO ASK
9 YOU, A, IF IT'S THE SAME WARNING, AND,
10 B, IF THAT COWBOY LOOKS TO BE A PRETTY
11 HEALTHY SPECIMEN TO YOU. OKAY?
12 A. YES, IT'S THE SAME WARNING.
13 AND THE COWBOY LOOKS PRETTY GOOD TO

14 ME.
15 Q. IF YOU WERE WALKING THROUGH A
16 DARK ALLEY, YOU WOULDN'T MIND HAVING
17 THAT GUY NEXT TO YOU?
18 A. NO, I'D LIKE HIM NEXT TO ME A
19 LOT.
20 Q. NOW, SOME QUESTIONS.
21 OVER THE COURSE OF THE YEARS,
22 STARTING WAY BACK IN THE '60S, HAVE
23 YOU HEARD STATEMENTS SUCH AS, NO ONE
24 REALLY KNOWS THE CAUSE OF LUNG CANCER?
25 VOICE: I'M GOING TO OBJECT TO
26 THE QUESTION AS LEADING AND
27 SUGGESTIVE.
28 A. YES, I'VE HEARD STATEMENTS
7990
1 LIKE THAT.
2 Q. HAVE YOU EVER HEARD, AIR
3 POLLUTION CAN -- MIGHT BE THE CAUSE OF
4 LUNG CANCER?
5 VOICE: SAME OBJECTION. THAT
6 IS, THAT IT'S LEADING AND SUGGESTIVE.
7 A. YES, I'VE HEARD THAT SAID.
8 Q. HAVE YOU EVER HEARD THAT THE
9 LINK BETWEEN SMOKING CIGARETTES AND
10 LUNG CANCER WAS JUST A MATTER OF
11 STATISTICS?
12 VOICE: SAME OBJECTION.
13 SPECIFICALLY, IT'S LEADING AND
14 SUGGESTIVE.
15 A. YES, I'VE HEARD THAT SAID.
16 Q. HAVE YOU HEARD REPRESENTATIVES
17 OF THE TOBACCO INDUSTRY OVER THE
18 COURSE OF TIME STARTING IN THE '60S
19 DISPUTE THE LINK BETWEEN SMOKING AND
20 LUNG CANCER?
21 VOICE: TWO OBJECTIONS HERE.
22 NUMBER ONE, THERE'S LACK OF
23 FOUNDATION.
24 AND NUMBER TWO, IT'S LEADING
25 AND SUGGESTIVE.
26 I WOULD ADD THAT IT CALLS FOR
27 HEARSAY AS WELL.
28 A. YES, I'VE HEARD THAT SAID.
7991
1 Q. STARTING IN THE '60S SOMETIME,
2 WHEN YOU BECAME AWARE THAT THE SURGEON
3 GENERAL HAD MADE SOME NEGATIVE
4 STATEMENTS ABOUT SMOKING CIGARETTES
5 AND HEALTH, STATEMENTS WHICH CAUSED
6 YOU TO SWITCH FROM PALL MALL TO
7 FILTERED MARLBOROS, STARTING AT AROUND
8 THAT TIME AND COMING FORWARD, HAVE YOU
9 HEARD OPPOSING INFORMATION PUT FORTH
10 BY THE TOBACCO INDUSTRY?
11 A. I HAVE.
12 Q. TELL US SOME OF THE THINGS
13 THAT YOU CAN RECALL HAVING HEARD,
14 PLEASE.
15 A. THERE'S NO PROOF THAT
16 CIGARETTE SMOKING CAUSES CANCER.
17 CIGARETTE SMOKING IS NOT A HEALTH
18 HAZARD, IS NOT A HEALTH RISK.

19 NICOTINE IS NOT ADDICTIVE.
20 Q. CAN YOU REMEMBER THE DATES
21 THAT YOU HEARD THESE THINGS?
22 A. NO, I CANNOT.
23 Q. CAN YOU REMEMBER THAT YOU
24 HEARD THESE STATEMENTS GOING ALL THE
25 WAY TO THE TIME WHEN THE SURGEON
26 GENERAL MADE HIS ORIGINAL STATEMENT?
27 VOICE: OBJECTION, IT'S,
28 NUMBER ONE, LEADING AND SUGGESTIVE,
7992
1 AND IT'S ALSO VAGUE AND AMBIGUOUS AS
2 TO, QUOTE, ALL THESE STATEMENTS,
3 CLOSED QUOTE.
4 A. I CAN REMEMBER THEM GOING BACK
5 THAT FAR.
6 Q. AT LEAST UNTIL THE LAST FIVE
7 YEARS OR SO -- IN FACT, I'M GOING
8 TO -- I'M GOING TO MAKE IT TEN YEARS.
9 DO YOU RECALL A TIME WHEN THE
10 CEO'S OF THE TOBACCO INDUSTRY APPEARED
11 BEFORE THE UNITED STATES CONGRESS TO
12 GIVE SWORN TESTIMONY ABOUT CIGARETTES
13 ABOUT --
14 A. YES, I DO.
15 Q. DID YOU SEE THAT TESTIMONY,
16 EITHER LIVE OR AS PART OF THE NEWS
17 COVERAGE AFTER IT WAS DONE?
18 A. YES, I DID.
19 Q. WHICH ONE?
20 A. I SAW IT AS PART OF THE NEWS
21 COVERAGE WHEN IT OCCURRED.
22 Q. USING THAT TIME RIGHT NOW AS
23 AN ARTIFICIAL CUTOFF, BETWEEN THE TIME
24 THAT THE SURGEON GENERAL ORIGINALLY
25 ISSUED THE STATEMENT OR REPORT THAT
26 LED YOU TO SWITCH TO FILTER-TIPPED
27 MARLBOROS, AND GOING FORWARD AT LEAST
28 TO THE TIME WHEN THOSE SEVEN CEO'S
7993
1 TESTIFIED BEFORE CONGRESS, DID
2 INFORMATION COME YOUR WAY THAT
3 CONTRADICTED WHAT THE SURGEON GENERAL
4 HAD TO SAY ABOUT THE NEGATIVE HEALTH
5 ASPECTS OF SMOKING CIGARETTES?
6 A. YES, IT DID.
7 Q. I'M GOING TO ASK IT AGAIN NOW
8 IN A SLIGHTLY DIFFERENT FORM.
9 BUT FIRST, DID THE CEO'S STICK
10 UP FOR CIGARETTES?
11 A. YES, THEY DID.
12 Q. WHEN YOU SAW THE SEVEN
13 CEO'S --
14 WAS IT SEVEN?
15 A. IT WAS SEVEN.
16 Q. -- TESTIFY BEFORE THE UNITED
17 STATES CONGRESS ON ISSUES RELATING TO
18 SMOKING AND HEALTH, WAS THEIR
19 TESTIMONY, IN YOUR VIEW, GENERALLY
20 FAVORABLE TO THE TOBACCO INDUSTRY'S
21 POSITION OR AGAINST THE TOBACCO
22 INDUSTRY'S POSITION?
23 A. IT WAS VERY FAVORABLE TO THEIR

24 POSITION.

25 Q. STARTING IN 1964 -- EXCUSE ME.

26 STARTING IN THE 1960S,

27 WHENEVER IT WAS IN THE '60S THAT THE

28 SURGEON GENERAL ISSUED THE REPORT THAT

7994

1 WAS RESPONSIBLE FOR YOUR SWITCHING TO

2 FILTER-TIPPED MARLBOROS, AND

3 CONTINUING FROM THAT TIME UP UNTIL AT

4 LEAST WHEN THE SEVEN CEO'S TESTIFIED

5 BEFORE CONGRESS, DID YOU COME INTO

6 RECEIPT OF INFORMATION WHICH

7 QUESTIONED THE SURGEON GENERAL'S

8 POSITION ON THE HEALTH HAZARDS OF

9 SMOKING CIGARETTES?

10 A. YES, I DID.

11 Q. DID YOU COME INTO THIS

12 INFORMATION ON A FAIRLY REGULAR BASIS

13 OVER THE COURSE OF THAT TIME?

14 VOICE: OBJECT -- AND

15 UNCERTAIN.

16 A. YES, I DID.

17 Q. IS IT POSSIBLE FOR YOU TO

18 ACTUALLY COUNT THE NUMBER OF TIMES

19 OVER A ROUGHLY 30-YEAR PERIOD THAT YOU

20 HEARD INFORMATION CONTRADICTING THE

21 SURGEON GENERAL'S STANCE?

22 A. NO, IT'S NOT.

23 Q. IS THERE ANY WAY YOU COULD

24 ACCURATELY GIVE US AN ESTIMATE OF HOW

25 MANY TIMES YOU HEARD THAT?

26 A. NO, THERE IS NOT.

27 Q. IS IT IN THE ONES AND TWOS, OR

28 IS IT IN THE TENS AND TWENTIES, OR IS

7995

1 IT IN THE FIFTIES AND HUNDREDS?

2 A. IT'S IN THE FIFTIES AND THE

3 HUNDREDS.

4 Q. WHAT WERE SOME OF THE THINGS

5 THAT YOU HEARD OVER THAT PERIOD OF

6 TIME CONTRADICTING THE SURGEON

7 GENERAL'S STANCE ON THE LINK BETWEEN

8 SMOKING CIGARETTES AND HEALTH?

9 A. THERE'S NO PROVEN CORRELATION

10 BETWEEN CIGARETTE SMOKING AND LUNG

11 CANCER. THERE'S NO PROOF THAT SMOKING

12 CAUSES CANCER. I'M CERTAIN THAT

13 SMOKING DOESN'T CAUSE CANCER. I

14 SMOKE. IF I THOUGHT SMOKING CAUSED

15 CANCER, I CERTAINLY WOULDN'T SMOKE.

16 MY CHILDREN SMOKE. I WOULDN'T LET MY

17 CHILDREN SMOKE IF SMOKING CAUSED

18 CANCER.

19 Q. TELL ME THE YEAR YOU MOVED TO

20 L.A. THE FIRST TIME.

21 A. IN 1965.

22 Q. IN 1965 -- THIS IS AN EASY

23 QUESTION -- IN 1965 IN PASADENA --

24 A. YES.

25 Q. -- WAS THERE ANY SMOG?

26 A. YES.

27 Q. OVER THIS COURSE OF TIME, DID

28 YOU EVER HEAR ANY INFORMATION CLAIMING

7996

1 TO LINK SMOG WITH LUNG CANCER?
2 A. YES.
3 VOICE: OBJECTION. LEADING
4 AND SUGGESTIVE.
5 A. YES, I DID.
6 Q. DID YOU HEAR THAT FROM THE
7 CHAMBER OF COMMERCE OF THE CITY OF
8 PASADENA?
9 A. NO, I DIDN'T.
10 Q. HAS THE LEVEL OF SMOG BEEN
11 GREATLY REDUCED OVER THE YEARS THAT
12 YOU'VE BEEN THERE?
13 A. YES, IT HAS.
14 Q. WAS THE AIR PRETTY DIRTY WHEN
15 YOU FIRST MOVED HERE?
16 A. YES, IT CERTAINLY WAS.
17 Q. DO YOU TEND TO BELIEVE THE
18 THINGS THAT GOVERNMENT TELLS YOU?
19 A. NO. I TEND TO DISBELIEVE THE
20 THINGS GOVERNMENT TELLS ME.
21 Q. WHY?
22 A. MY EXPERIENCE IS THAT THE
23 GOVERNMENT HAS A BIAS. AND MY
24 EXPERIENCE IS THAT GOVERNMENT AND
25 GOVERNMENT OFFICIALS ARE LESS THAN
26 FORTHRIGHT AND LESS THAN CANDID IN
27 PRESENTING FACTS, AND I DISBELIEVE
28 THEM FOR THE MOST PART.

7997

1 Q. DO YOU TYPICALLY TEND TO
2 BELIEVE SPOKESPEOPLE -- UNTIL
3 RECENTLY -- SPOKESPERSONS FOR BIG
4 BUSINESS?
5 A. YES, I DO.
6 Q. WHY?
7 A. I'M ASSOCIATED WITH OFFICERS
8 OF MEDIUM- TO LARGE-SIZE COMPANIES AND
9 CORPORATIONS. I'VE RESPECTED THEM,
10 AND I HAVE -- MY EXPERIENCE HAS BEEN
11 THAT, FOR THE MOST PART, THEY'RE
12 HONEST AND REPUTABLE.
13 Q. BETWEEN THE SURGEON GENERAL, A
14 REPRESENTATIVE OF THE GOVERNMENT, AND
15 THE SPOKESPERSON FOR TOBACCO, A
16 RELATIVELY MEEK BUSINESS, WHEN YOU
17 HEARD DISAGREEMENTS OVER THE COURSE OF
18 30 YEARS OR MORE CONCERNING THE HEALTH
19 RISKS OF TOBACCO, WHO DID YOU BELIEVE?
20 A. I BELIEVED THE TOBACCO
21 INDUSTRY.
22 Q. IN 19- -- EXCUSE ME.
23 IN THE YEAR IN THE '60'S WHEN
24 THE SURGEON GENERAL'S REPORT
25 ORIGINALLY CAME OUT AND YOU SWITCHED
26 OVER TO FILTER-TIPPED MARLBOROS, DID
27 YOU BELIEVE THAT SMOKING CAUSED LUNG
28 CANCER?

7998

1 A. NO, I DID NOT.
2 Q. TEN YEARS LATER -- AND I'M
3 JUST GOING -- I'M JUST GOING TO PICK A
4 YEAR -- 1974, DID YOU BELIEVE THAT

5 SMOKING CAUSED LUNG CANCER?
6 A. NO, I DID NOT.
7 Q. '84?
8 A. NO, I DID NOT.
9 Q. '94?
10 A. NO, I DID NOT.
11 Q. DO YOU?
12 A. YES.
13 Q. WHEN DID YOU START BELIEVING
14 THAT?
15 A. WHEN I CONTRACTED LUNG CANCER.
16 Q. DON'T YOU THINK IT WAS KIND
17 OF --
18 A. YES.
19 Q. DO YOU KNOW WHAT FARM
20 SUBSIDIES ARE?
21 A. YES, I DO.
22 Q. WHAT ARE THEY?
23 A. MONIES THAT THE GOVERNMENT
24 GIVES THE GROWER TO --
25
26 MR. PIUZE: WHY DON'T YOU GO ABOUT A MINUTE OR TWO
27 AND GIVE US A CLEAN START, PLEASE.
28 MR. GOLDSTEIN: LET ME MAKE SURE I'VE GOT THIS RIGHT.
7999
1 THE COURT: WHILE THEY'RE TALKING, FOLKS . . .
2
3 (SHORT PAUSE.)
4
5 A. YES.
6 Q. DO YOU KNOW WHAT FARM
7 SUBSIDIES ARE?
8 A. YES, I DO.
9 Q. WHAT ARE THEY?
10 A. MONIES THAT THE GOVERNMENT
11 GIVES THE GROWER TO GROW A CROP OR NOT
12 GROW A CROP IN ORDER TO ENSURE THAT
13 THERE'S A CONSISTENT SUPPLY AND A
14 FINANCIAL RETURN TO THE GROWER,
15 IRREGARDLESS OF DEMAND.
16 Q. DID THE ISSUE OF FARM
17 SUBSIDIES PLAY ANY PART IN YOUR
18 THINKING ABOUT WHO TO BELIEVE OVER THE
19 COURSE OF DECADES ON THE ISSUE OF
20 SMOKING AND HEALTH?
21 A. IT DID.
22 Q. HOW?
23 A. ON ONE HAND, THE GOVERNMENT IS
24 TELLING ME THAT IT'S A DANGEROUS THING
25 TO DO, TO SMOKE. AND ON THE EQUAL AND
26 OPPOSITE HAND, THE GOVERNMENT IS
27 SUBSIDIZING ALL OF TOBACCO GROWN IN
28 THE UNITED STATES. AND IT CERTAINLY
8000
1 IS INCONGRUOUS, TO SAY THE LEAST.
2 Q. IS THIS SOMETHING YOU'VE COME
3 UP WITH IN THE LAST TWO YEARS, OR IS
4 THIS SOMETHING YOU'VE ACTUALLY THOUGHT
5 UP IN THE DISTANT PAST?
6 A. SOMETHING THAT I'VE KNOWN FOR
7 A LONG TIME.
8 Q. LET'S SEE THE REST OF THESE
9 PICTURES. COULD YOU JUST GO THROUGH

10 THEM RIGHT NOW, PLEASE, TO MAKE SURE
11 THAT YOU'RE FAMILIAR WITH ALL OF THEM.
12 I DON'T WANT YOU HOLDING THEM UP FOR
13 THE CAMERA.

14 ANY ONES THAT YOU'RE NOT
15 FAMILIAR WITH, I WANT YOU TO SEPARATE
16 OUT. PLEASE.

17 VOICE: FOR CLARIFICATION, YOU
18 MENTIONED "FAMILIAR."

19 WHAT YOU MEAN BY THAT IS THAT
20 HE ACTUALLY HAS PICKED THIS OUT OF
21 SOME AVAILABLE STACK OF ADVERTISEMENTS
22 THAT YOU'VE SHOWN HIM AND PICKED THEM
23 OUT AS ONES THAT HE HAS SEEN IN THE
24 PAST?

25 VOICE: YES, THAT'S EXACTLY
26 WHAT I MEAN.

27 VOICE: OKAY.
28 VOICE: SORRY.

8001

1 A. THESE.
2 Q. AND IN THE PROCESS, DID YOU
3 JUST CAST ASIDE SOMETHING LIKE THREE
4 TO FOUR?
5 A. YES, I DID.
6 VOICE: IF IT'S ALL RIGHT WITH
7 EVERYONE PRESENT, WE'LL JUST, WITHOUT
8 SHOWING THESE ONE AT A TIME FOR THE
9 CAMERA, WE'LL JUST NUMBER THESE
10 SEQUENTIALLY STARTING WITH 111.
11 IS THAT OKAY?
12 VOICE: I HAVE NO OBJECTION
13 WITH THAT.
14 Q. WHAT'S THE LAST NUMBER,
15 MR. RELLER?
16 A. 126.
17 Q. OKAY. I WANT TO SWITCH TOPICS
18 WITH YOU NOW. I WANT TO SHOW YOU A
19 PICTURE THAT I'M MARKING AS 127.
20 DO YOU KNOW WHO THOSE PEOPLE
21 ARE?
22 A. UH-HUH. YEP.
23 Q. THAT WAS AN EASY QUESTION,
24 HUH?
25 A. YEP.
26 Q. WHO ARE THEY?
27 A. MY WIFE AND MYSELF.
28 Q. LET'S TAKE A LOOK THERE.

8002

1 ROUGHLY, HOW LONG HOW LONG AGO
2 WAS THAT PICTURE TAKEN?
3 A. OH, TEN YEARS AGO. A LITTLE
4 BIT LONGER. MAYBE 12 YEARS AGO.
5 Q. THANK YOU.
6
7 THE COURT: OKAY.
8 OKAY. WE'RE GOING TO STOP HERE, FOLKS.
9 YOU'RE ADMONISHED THAT IT IS YOUR DUTY NOT TO
10 CONVERSE AMONG YOURSELVES OR WITH ANYONE ELSE ON ANY SUBJECT
11 CONNECTED WITH THIS TRIAL OR TO FORM OR EXPRESS ANY OPINION
12 THEREON UNTIL THE CAUSE IS FINALLY SUBMITTED TO YOU.
13 I FORGOT TO ASK.
14 HOW WAS YOUR RECEPTION OR, SORRY, REUNION?

15 ALTERNATE JUROR WASHINGTON: BEAUTIFUL. VERY NICE,
16 THANK YOU.
17 THE COURT: GOOD. GOOD.
18 OKAY. I'LL SEE YOU FOLKS TOMORROW AT 8:30 FOR
19 THE JURORS.
20 8:30 TOMORROW. AND TOMORROW IS JULY 2ND, WHICH
21 IS THE BEGINNING OF JULY. IT'S AMAZING.
22
23 (THE FOLLOWING PROCEEDINGS WERE HELD
24 IN OPEN COURT OUT OF THE PRESENCE
25 OF THE JURY:)
26
27 THE COURT: STILL IN THE MATTER OF RELLER VERSUS
28 PHILIP MORRIS, BC 261796.
8003
1 WE'RE OUTSIDE THE PRESENCE OF THE JURY.
2 ALL COUNSEL PREVIOUSLY STATED ARE PRESENT.
3 DR. LEWIS IS PRESENT.
4 MR. PIUZE, YOU USED 5 HOURS AND 21 MINUTES
5 TODAY.
6 MS. WILKINSON, YOU USED 3 MINUTES TODAY.
7 I WOULD LIKE TO -- WE HAVE ONE EXHIBIT THAT
8 PROBABLY NEEDS TO BE DEALT WITH. IT IS NO. 249, LETTER FROM
9 DR. ALLARD, DATED NOVEMBER 27TH, 2000.
10 ARE YOU ASKING TO INTRODUCE IT, MR. PIUZE?
11 MR. PIUZE: I DON'T.
12 THE COURT: OKAY. DO YOU WANT IT FOR ANY REASON?
13 MS. WILKINSON: YES, YOUR HONOR.
14 THE COURT: ANY OBJECTION?
15 MS. WILKINSON: SINCE HE INTRODUCED IT WITH THE
16 JURORS.
17 MR. PIUZE: IT'S IRRELEVANT THAT I INTRODUCED IT. I
18 DIDN'T MOVE IT IN, BUT, YOUR HONOR, I CAN'T THINK OF A
19 LEGAL -- I CAN'T THINK OF A LEGAL OBJECTION TO KEEP IT OUT.
20 THE COURT: NEITHER CAN I.
21 MR. PIUZE: ALL RIGHT.
22 THE COURT: ALL RIGHT. IN THAT CASE, 249 IS RECEIVED
23 INTO EVIDENCE.
24
25 (EVID. - 249)
26
27 THE COURT: ARE THERE ANY OTHER THINGS WE NEED TO
28 COVER RIGHT NOW?
8004
1 MR. PIUZE: YES.
2 MS. WILKINSON: YES.
3 ONE, YOUR HONOR. I THINK MR. PIUZE IS GETTING
4 CLOSE TO RESTING HIS CASE, SO WE NEED THE REST OF THE
5 WITNESSES. WE NEED TO KNOW WHO THE WITNESSES ARE COMING UP
6 NEXT.
7 MR. PIUZE: I'VE GOT SOMETHING MORE, AND MORE
8 MEANING --
9 MS. WILKINSON: COULD WE HAVE WE AN ANSWER TO THAT,
10 AND THEN --
11 THE COURT: NO. LET HIM HANDLE HIS OTHER ISSUE.
12 WE'LL DEAL WITH THAT.
13 WHAT'S YOUR PROBLEM, MR. RELLER -- MR. PIUZE?
14 IT'S BEEN A LONG DAY.
15 MR. PIUZE: THAT'S FINE. IT DOESN'T BOTHER ME.
16 MY DESIGNATION OF MR. RELLER'S TESTIMONY WAS
17 TURNED IN 50-PLUS DAYS AGO.
18 THE COURT: WHAT?
19 MR. PIUZE: 50-PLUS.

20 THE COURT: OKAY. AND?
21 MR. PIUZE: THE DEFENSE DESIGNATION WAS TURNED IN AT
22 7 O'CLOCK LAST NIGHT. IT COVERS FIVE VOLUMES OF DEPOSITION
23 TESTIMONY.
24 I HAVEN'T HAD A CHANCE, NEEDLESS TO SAY, TO GO
25 THROUGH IT TO TRY TO EVEN FORMULATE WHETHER OR NOT I'M GOING
26 TO HAVE ANY OBJECTIONS AND/OR COUNTERDESIGNATIONS. I'M GOING
27 TO GO HOME AND START DOING THAT AS FAST AS I POSSIBLY CAN.
28 THE COURT: OKAY.

8005

1 MR. PIUZE: I'M JUST ALERTING THE COURT THAT WE MAY
2 NEED A LITTLE EXTRA WORK IN THE MORNING, A LITTLE EXTRA TIME
3 IN THE MORNING, IN ORDER TO HANDLE THAT.
4 AND NOT TO CRY OR ANYTHING, BUT I'VE BEEN
5 ASKING FOR THIS FOR ABOUT TEN DAYS NOW. SO I GOT IT LAST
6 NIGHT AT 7 O'CLOCK. I'LL WORK ON IT AS HARD AS I CAN, AS
7 FAST AS I CAN TO PROVIDE THE COURT WITH MY DESIGNATION AND
8 COUNTERDESIGNATIONS. I'M JUST ALERTING THE COURT THAT THERE
9 WILL BE SOME POTENTIAL WORK TO BE DONE ON THIS ISSUE.
10 THE COURT: HOW MUCH LONGER IS YOUR STUFF GOING TO
11 GO?
12 MR. GARDNER: AN HOUR, 45 MINUTES.
13 THE COURT: HOW MUCH?
14 I'M SORRY.
15 MR. GOLDSTEIN: LESS THAN AN HOUR.
16 THE COURT: ALL RIGHT. SO I'LL START WORKING,
17 MR. PIUZE, AS SOON AS I GET YOUR THINGS.
18 MR. PIUZE: YES. YES. AND SO MAYBE I'LL TRY TO BE
19 IN HERE TO GIVE THEM TO THE COURT IN THE VICINITY OF --
20 THE COURT: WHAT TIME ARE YOU GOING TO GET HERE,
21 MR. PIUZE, AND I'LL TRY AND BE HERE.
22 MR. PIUZE: I APOLOGIZE. I CAN HAVE THEM HERE AT,
23 LIKE, 7:45, WOULD BE --
24 THE COURT: ALL RIGHT. I'LL BE HERE AT 7:45.
25 AND I'LL DO WHAT I'VE DONE BEFORE, IS WORK AS
26 FAST AS I CAN TO GET THROUGH THEM. I'M PRETTY FAST ABOUT
27 LOOKING THROUGH PAGES. I AM GOING TO NEED FROM SOMEBODY -- I
28 DON'T KNOW IF THIS IS IT -- DEFENDANTS' DESIGNATIONS FROM

8006

1 PLAINTIFF'S FREDERIC RELLER.
2 IS THIS IT HERE?
3 MR. GARDNER: YES, YOUR HONOR.
4 MS. WILKINSON: THAT'S OUR SUBMISSION, YES.
5 THE COURT: I'VE GOT THE -- FINE. I'VE GOT THE
6 TRANSCRIPT.
7 MR. PIUZE: I'D LIKE A LITTLE GUIDANCE FROM THE
8 COURT.
9 THE COURT: YOU CAN DO IT IN HANDWRITING, IF THAT'S
10 WHAT YOUR ISSUE IS.
11 MR. PIUZE: NO. I WAS JUST GOING TO DO THAT.
12 THE COURT: OH, OKAY.
13 MR. PIUZE: MY HANDWRITING'S AS GOOD AS THE COURT'S.
14 I'VE SEEN THE COURT'S HANDWRITING.
15 THE COURT: IT'S HORRIBLE. I KNOW.
16 I DON'T KNOW WHAT YOURS IS, MR. PIUZE, BUT MINE
17 IS LOUSY, YEAH, SO --
18 MR. PIUZE: SO WHAT I WAS GOING TO ASK IS THIS: IF I
19 DON'T HAVE ENOUGH TIME, IT WOULD SEEM TO ME THAT THE SMARTER
20 THING TO DO WOULD TO BE CONCENTRATE ON THE DESIGNATIONS,
21 RATHER THAN THE COUNTERDESIGNATION.
22 THE COURT: I THINK YOU'RE RIGHT. I NEED TO GET TO
23 THAT BEFORE I DO ANYTHING ELSE.
24 MR. PIUZE: THANK YOU. YES. THAT'S ALL I HAD TO

25 TALK ABOUT.
26 I'M NOW PREPARED TO ANSWER ANY INQUISITION OR
27 INQUIRIES FROM THE DEFENSE.
28 THE COURT: WELL, THERE'S AN INQUIRY FROM ME.
8007
1 WHERE ARE WE GOING NEXT, MR. PIUZE?
2 WHO'S UP NEXT?
3 WHAT'S ON NEXT?
4 MR. PIUZE: DR. RUBEN WILL BE HERE TOMORROW.
5 THE COURT: HELP ME OUT. RUBEN IS THE LADY THAT THEY
6 TALKED ABOUT FROM USC THAT STARTED -- WHO WAS DOING THE
7 FOLLOW-UP -- DID THE CANCER TREATMENT; IS THAT CORRECT?
8 WHO IS THAT?
9 MR. PIUZE: SHE WAS THE TREATING ONCOLOGIST AT USC.
10 THE COURT: OKAY. ALL RIGHTY.
11 MR. PIUZE: SHE WILL BE HERE AT 11:30.
12 SO I CAN TALK TO HER OVER OUR LUNCH, AND I'D
13 LIKE TO PUT HER ON IMMEDIATELY AFTER LUNCH. AND IT WOULD BE
14 MY IMPRESSION THAT, BASED ON THE LAST TWO TREATING DOCTORS,
15 THAT HER TESTIMONY WILL NOT TAKE VERY LONG AT ALL.
16 THE COURT: I EXPECT IT'S GOING TO BE -- PART OF
17 THE COLLOQUIALISM -- QUICK AND DIRTY, YES.
18 MR. PIUZE: AFTER MR. RELLER'S DEPOSITION HAS BEEN
19 PLAYED, I WANT -- AND FOR WHATEVER IT'S WORTH, I DO NOT
20 BELIEVE HIS DEPOSITION WILL -- THE VIDEO DEPOSITION TESTIMONY
21 WILL CONCLUDE TOMORROW.
22 THE COURT: OKAY.
23 MR. PIUZE: SO NOW, WE'RE TALKING ABOUT NEXT WEEK. I
24 HAVE BEEN ASKED BY MS. WILKINSON AND AGREED TO HER REQUEST TO
25 ALLOW DR. DOMINO, A DEFENSE WITNESS, TO COME IN OUT OF ORDER
26 ON TUESDAY.
27 THE COURT: OKAY.
28 MR. PIUZE: SO -- SO YOU -- SO NOW, WE'RE TALKING
8008
1 AFTER THAT.
2 AFTER DOMINO AND AFTER THE PLAINTIFF'S
3 DEPOSITION CONCLUDES, I WOULD WANT TO PLAY -- AND I HAVEN'T
4 FIGURED OUT THE EXACT ORDER HERE -- THE CONGRESSIONAL
5 TESTIMONY THAT YOUR HONOR HAS. THE JURY --
6 THE COURT: THAT I NEED TO READ THROUGH AND DO
7 SOMETHING WITH, RIGHT?
8 MR. PIUZE: YES. IT'S VERY BRIEF.
9 THE COURT: HELP ME OUT HERE. EXACTLY WHAT IS IT
10 THAT I NEED TO DO.
11 MR. PIUZE: YOUR HONOR SAW THE SEVEN OF THEM DENY
12 ADDICTION IN A --
13 THE COURT: RIGHT. RIGHT.
14 MR. PIUZE: AND THEN WHEN CAMPBELL TESTIFIED THAT HE
15 DIDN'T KNOW THE CAUSE OF CANCER, THERE WAS A SECOND QUESTION
16 BY CONGRESSMAN WAXMAN.
17 THE COURT: IS THAT WHEN HE TESTIFIED, RATHER THAN
18 ASKED A QUESTION --
19 MS. WILKINSON: YES.
20 THE COURT: -- IN ESSENCE, MR. PIUZE.
21 MR. PIUZE: I DON'T THINK THE CONGRESSMAN TESTIFIED.
22 THE COURT: WELL, ALL RIGHT. HE MADE A POLITICAL
23 STOMP SPEECH STATEMENT, LIKE HE WAS OUT ON THE CAMPAIGN
24 TRAIL. THAT IS THE ONE WE'RE TALKING ABOUT, WHEN -- WHERE HE
25 WENT ON FOR SOME TIME BEFORE HE ASKED A YES OR NO QUESTION OR
26 SOMETHING.
27 MR. PIUZE: POLITICALLY INCORRECT, BUT EVEN I DECLINE
28 TO CHARACTERIZE WHAT HE SAID IN THAT MANNER.
8009

1 BUT WHATEVER IT IS, IT RAISED THE COURT'S
2 EYEBROWS, AND THE COURT WANTED TO LOOK AT A TRANSCRIPT, AND
3 WE PROVIDED THE TRANSCRIPT.
4 THE COURT: OKAY.
5 MR. PIUZE: AND I THINK THE REAL BOTTOM LINE IS,
6 AFTER CAMPBELL SAYS, WE DON'T KNOW WHAT CAUSED CANCER, ARE
7 YOU GOING TO CUT IT THERE OR NOT?
8 I THINK THAT'S BASICALLY WHERE YOU WERE.
9 THE COURT: OKAY. I'LL RETHINK IT. I KNOW WHAT
10 WE'RE TALKING ABOUT.
11 MY CONCERN, MR. PIUZE, JUST SO YOU
12 UNDERSTAND --
13 MR. PIUZE: YES.
14 THE COURT: -- WASN'T WHAT THE PEOPLE FROM THE
15 TOBACCO INDUSTRY WERE SAYING.
16 MY CONCERN WAS, WE HAD WHAT APPEARED TO ME TO
17 BE TESTIMONY NOT UNDER OATH BY CONGRESSMAN WAXMAN.
18 MR. PIUZE: WE -- WELL, YOUR HONOR --
19 THE COURT: YOU DON'T HAVE TO LOOK AT IT THAT WAY.
20 MR. PIUZE: I LOOKED AT IT AS FINAL ARGUMENT, NOT
21 TESTIMONY.
22 THE COURT: WELL, FINE. WE'VE GOT THE SAME -- WE'VE
23 GOT THE SAME. I THINK YOU'VE GOT THE DRIFT.
24 MR. PIUZE: I UNDERSTOOD YOUR CONCERN. I'M NOT
25 QUARRELING WITH THAT.
26 THE COURT: ALL RIGHTY.
27 MR. PIUZE: ANYWAY. AFTER THAT, WE HAVE TESTIMONY TO
28 READ FROM MERRYMAN, LEBOW.
8010
1 THE COURT: WHO'S THAT?
2 MR. PIUZE: BIBLE.
3 THE COURT: OKAY.
4 MR. PIUZE: MERRYMAN IS WITH THE TOBACCO INSTITUTE.
5 LEBOW WAS THE OWNER OF LIGGETT & MYERS, WHICH
6 WAS BOUGHT -- SEVERAL OF HIS BRANDS WERE BOUGHT OUT, BRAND
7 NAMES WERE BOUGHT OUT BY PHILIP MORRIS.
8 BIBLE WAS THE CEO OF PHILIP MORRIS.
9 THE COURT: 1998 OR '99, OR SOMEWHERE IN THERE.
10 THAT'S --
11 MS. WILKINSON: 1998.
12 MR. PIUZE: IT'S THE MINNESOTA TRIAL TESTIMONY.
13 STATE OF MINNESOTA VERSUS THE TOBACCO INDUSTRY.
14 THE COURT: ALL RIGHT.
15 MR. PIUZE: MRS. RELLER IS GOING TESTIFY IN THIS
16 TRIAL.
17 AND THEN I MAY -- I HAVEN'T DECIDED YET -- I'LL
18 DECIDE SHORTLY -- I MAY CALL ONE OF HIS SONS.
19 AND I MAY CALL A FRIEND. IT MIGHT BE NEWBERRY.
20 IT MIGHT BE --
21 MS. WILKINSON: WHICH SON?
22 MR. PIUZE: -- THE CHIROPRACTOR.
23 FLIP A COIN. I DON'T KNOW. WELL, WHAT -- HE'S
24 NOT GOING TO BE HERE TOMORROW. YOU'VE GOT AN ENTIRE WEEK.
25 I'LL LET YOU KNOW. OKAY.
26 THE COURT: THAT'S IT. SOUNDS LIKE YOU'RE GOING TO
27 BE RESTING WEDNESDAY OR THURSDAY, PROBABLY, YES?
28 IS THAT WHAT WE'RE LOOKING AT HERE?
8011
1 THURSDAY, MAYBE, FRIDAY?
2 MR. PIUZE: I WOULD HAVE GUESSED, YOUR HONOR,
3 TUESDAY, WEDNESDAY. WITH DOMINO OUT OF ORDER, I THINK YOU'RE
4 RIGHT, WEDNESDAY, THURSDAY SOUNDS ABOUT RIGHT.
5 THE COURT: I WAS THINKING DOMINO ON TUESDAY. IS HE

6 GOING TO BE MOST OF THE DAY?
7 MS. WILKINSON: YOU KNOW, I'M GUESSING, YOUR HONOR,
8 THAT I'LL HAVE HIM ON FOR AN HOUR AND A HALF ON DIRECT, AND
9 THEN IT DEPENDS ON MR. PIUZE'S CROSS, OF COURSE.
10 MR. PIUZE: OKAY. "DEATH IN THE WEST," TOO. THE
11 BOWLING -- THE BOWLING AND WAKEHAM INTERVIEWS. THAT'S RIGHT.
12 THE BOWLING AND WAKEHAM INTERVIEWS.
13 THE COURT: CAN I HAVE -- CAN I SEE WHAT IT IS?
14 MR. PIUZE: SURE.
15 THE COURT: OR A TRANSCRIPT. OR I DON'T HAVE TO
16 WATCH IT, I HOPE. I CAN READ THROUGH SOMETHING FASTER IF
17 THERE'S A TRANSCRIPT.
18 IS THERE A TRANSCRIPT?
19 MR. PIUZE: RAY?
20 MR. GOLDSTEIN: YES.
21 MR. PIUZE: IS THERE A TRANSCRIPT?
22 MR. GOLDSTEIN: CORRECT, THERE ARE TRANSCRIPTS.
23 MR. PIUZE: IT'S NOT VERY LONG.
24 THE COURT: I CAN READ FASTER THAN I CAN LISTEN TO
25 IT.
26 MR. PIUZE: THEY'RE NOT LONG. I'M SURE THERE'S --
27 THE COURT: I'M SURE THERE'S GOING TO BE OBJECTIONS
28 TO IT, BUT I KIND OF WOULD LIKE TO SEE WHAT IT IS, FIRST.
8012
1 MR. PIUZE: THERE WOULDN'T BE --
2 MS. WILKINSON: TWO ISSUES, YOUR HONOR.
3 MR. PIUZE: NEVER HAVE BEEN.
4 THE COURT: I KNOW. GO AHEAD.
5 MS. WILKINSON: ON LEBOW, THERE'S ACTUALLY A PENDING
6 MOTION IN LIMINE. REMEMBER, WE DECIDED THAT SOME OF THE
7 MOTIONS IN LIMINE, WE HELD OFF UNTIL THEY WERE --
8 THE COURT: OKAY.
9 MS. WILKINSON: -- RIPE.
10 THE COURT: WHAT NUMBER IS IT?
11 MS. WILKINSON: I WILL HAVE TO CHECK AND GET BACK TO
12 THE COURT TOMORROW MORNING. I'LL DO THAT.
13 THE COURT: OKAY.
14 MS. WILKINSON: AND "DEATH IN THE WEST," DID HE -- WE
15 DO HAVE OBJECTIONS, SO MAYBE IF MR. PIUZE CAN GIVE US --
16 MR. PIUZE: IT'S BEEN DECIDED.
17 THE COURT: WELL, IT WAS DECIDED AND NOT DECIDED.
18 MS. WILKINSON: RIGHT.
19 THE COURT: IT WAS BASICALLY -- I NEED TO HAVE SOME
20 UNDERSTANDING OF WHAT IT WAS. I WASN'T SAYING NO, BUT I
21 WASN'T SAYING YES.
22 MR. PIUZE: HERE'S -- HERE'S WHAT I RECALL. THE
23 COURT SAID, "DEATH IN THE WEST" DOESN'T COME IN, AND
24 MR. PIUZE DOESN'T WANT IT IN, SO THAT'S A NONISSUE.
25 THESE TWO PEOPLE -- ONE WAS A NEW YORK-BASED
26 SENIOR VP AT PHILIP MORRIS. THE OTHER WAS WAKEHAM, TOP
27 SCIENTIST AT PHILIP MORRIS. THEY BOTH GAVE DETAILED
28 INTERVIEWS TO NEWS CREWS FROM BRITAIN.
8013
1 THE COURT: WHILE THEY WERE WORKING AT PHILIP MORRIS?
2 MR. PIUZE: ABSOLUTELY. AND THESE ARE STATEMENTS
3 AGAINST INTERESTS, ADMISSIONS OF OFFICIAL CAPACITY OF THESE
4 PEOPLE.
5 THE COURT: OKAY. BUT BEFORE WE DO ANY MORE ON IT,
6 I'D LIKE A TRANSCRIPT SO THAT WHEN -- IF THERE ARE -- WHEN
7 THERE ARE OBJECTIONS, WHICH I'M SURE THERE WILL BE, I, AT
8 LEAST, AM NOT WALKING -- IT'S NOT OUT OF CONTEXT FOR ME.
9 MR. PIUZE: SURE.
10 THE COURT: OKAY. SO I GUESS THAT'S SOMETHING I GET

11 TO TAKE ON THE AIRPLANE WITH ME.
12 MR. PIUZE: WELL, IF YOU WANT TO LAUGH, FOR ALL WE
13 KNOW, APPLESAUCE CAUSES LUNG CANCER. I WOULDN'T SMOKE. IT'S
14 THE AIR POLLUTION IN NEW YORK. CIGARETTES, NO.
15 THE COURT: WHATEVER. IF YOU COULD GET ME -- I'M
16 IGNORING THAT, MR. PIUZE -- IF YOU COULD GET ME A TRANSCRIPT,
17 SO I COULD TAKE IT ON A PLANE, SO AT LEAST THEN I HAVE SOME
18 IDEA AS TO WHEN -- IF AND WHEN MS. WILKINSON OR MR. GARDNER
19 OBJECT, IT WON'T BE OUT OF CONTEXT FOR ME.
20 MR. PIUZE: SURE.
21 THE COURT: OKAY.
22 MR. PIUZE: YEP.
23 MS. WILKINSON: ONE OTHER THING, YOUR HONOR. WE
24 FILED MOTION IN LIMINE E3, WHICH IS OUR DEFENDANTS' MOTIONS
25 FOR PROTECTIVE ORDER, WHICH ALLOWS US TO GIVE OUR FINANCIAL
26 EXPERTS ON FINANCIAL DATA AND KEEP IT UNDER PROTECTIVE ORDER.
27 AND WE'D LIKE YOU TO DECIDE THAT BECAUSE RIGHT
28 NOW WE CANNOT GET OUR EXPERT PREPARED.

8014

1 THE COURT: I NEED TO FIND E3.
2 MS. WILKINSON: SURE. IT'S E3.
3 IS THIS AN EXTRA COPY?
4 I CAN HAND THIS UP TO THE COURT, YOUR HONOR.
5 THE COURT: I DON'T NEED THIS ONE ANYMORE.
6 THIS IS AN EXTRA COPY OF E3?
7 MS. WILKINSON: YES.
8 THE COURT: YOU'RE WONDERFUL. THANK YOU.
9 CAN I KICK YOU GUYS OUT?
10 MS. WILKINSON: YES.
11 THE COURT: I'LL SEE YOU TOMORROW AT 7:45.

12
13 (AT 3:28 P.M., AN ADJOURNMENT WAS TAKEN
14 UNTIL WEDNESDAY, JULY 2, 2003 AT 7:45 A.M.)
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